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code of federal regulations

Protection of Environment

ORIGINAL

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602

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PART 425 TO END
Revised as of July 1, 1982

022-003-94834-1

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code of federal regulations

Protection of Environment

40

PART 425 TO END

Revised as of July 1, 1982

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thus: 40 CFR 425.10

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16	as of January 1
Title 17 through Title 27	as of April 1
Title 28 through Title 41	as of July 1
Title 42 through Title 50	as of October 1

The appropriate revision date is printed on the cover of each volume.

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The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

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The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

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Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

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What is incorporation by reference? Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.

What is a proper incorporation by reference? The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR Part 51 are met. Some of the elements on which approval is based are:

(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR 51.4.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

What if the material incorporated by reference cannot be found? If you have any problem locating or obtaining a copy of material listed in the Finding Aids of this volume as an approved incorporation by reference, please contact the agency that issued the regulation containing that incorporation. If, after contacting the agency, you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Service, Washington DC 20408, or call (202) 523-4534.

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An index to the text of Presidential documents appears at the end of each compilation of Title 3, The President.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the "Contents" entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

INQUIRIES AND SALES

For a summary, legal interpretation, or other explanation of any regulation in this volume, contact the issuing agency. Inquiries concerning editing procedures and reference assistance with respect to the Code of Federal Regulations may be addressed to the Director, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408 (telephone 202-523-3517). Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

JOHN E. BYRNE,
Director,
Office of the Federal Register.

July 1, 1982.

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THIS TITLE

Title 40—Protection of Environment is composed of nine volumes. The parts in these volumes are arranged in the following order: Parts 0-51, Part 52, Parts 53-80, Parts 81-99, Parts 100-149, Parts 150-189, Parts 190-399, Parts 400-424, and Part 425 to end. The contents of these volumes represent all current regulations codified under this title of the CFR as of July 1, 1982.

Chapter I—Environmental Protection Agency appears in all nine volumes. A Pesticide Tolerance Commodity Index appears in Parts 150-189. Regulations issued by the Council on Environmental Quality appear in the volume containing Part 425 to end.

For this volume, Clarietha T. English was Chief Editor, assisted by Donna L. Rickett. The Code of Federal Regulations publication program is under the direction of Martha B. Girard, assisted by Robert E. Jordan

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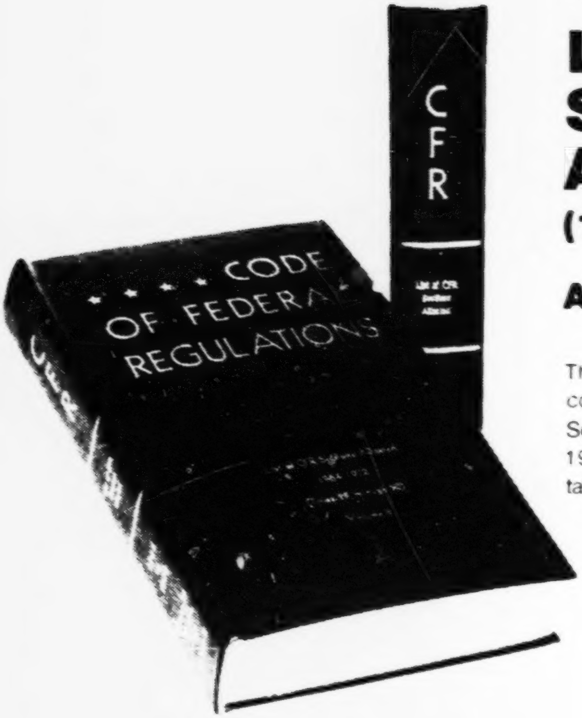

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AUTHORITY: Secs. 301, 304(b) and (c), 306(b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314(b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq., Pub. L. 92-500.

SOURCE: 39 FR 12960, Apr. 9, 1974, unless otherwise noted.

Subpart A—Hair Pulp Unhairing With Chrome Tanning and Finishing Subcategory

§ 425.10 Applicability; description of the hair pulp unhairing with chrome tanning and finishing subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the tanneries which either exclusively or in addition to other unhairing and tanning operations, chrome tan and finish cattle hides after hair pulp unhairing. This subcategory includes the following tannery types: (a) One which chrome tans and finishes cattle hides after removing the hair by the hair pulp technique, (b) one which chrome tans and finishes cattles hides after removing the hair by both the hair pulp and hair save techniques (the latter hair removal operations are independent processes within the same tannery), (c) one which both chrome tans and vegetable tans and finishes cattle hides after removing the hair by both the hair save and hair pulp technique, and (d) one which chrome tans sheep skins after removing the wool.

[39 FR 12960, Apr. 9, 1974, as amended at 42 FR 15703, Mar. 23, 1977]

§ 425.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "hide" shall mean any animal pelt or skin as received by a tannery as raw material to be processed.

(c) The term "skin" shall mean hide.

(d) The term "finish" shall mean the final processing steps performed on a tanned hide including, but not limited to, the following wet processes: retan, bleach, color, and fatliquor.

(e) The term "hair pulp" shall mean the removal of hair by means of chemical dissolution.

(f) The term "hair save" shall mean the physical or mechanical removal of hair which has not been chemically dissolved.

(g) The term "chrome tan" shall mean the process of converting hide into leather using a form of chromium.

(h) The term "vegetable tan" shall mean the process of converting hide into leather using chemicals either derived from vegetable matter or synthesized to produce effects similar to those of chemicals, so derived.

§ 425.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg raw material)	
BOD5	8.0	4.0
TSS	10.0	5.0
Chrome	0.20	0.10
Oil and grease	1.50	0.75
pH	([1])	([1])
	English units (pounds per 1,000 lb of raw material)	
BOD5	8.0	4.0
TSS	10.0	5.0
Chrome	0.20	0.10
Oil and grease	1.50	0.75
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	2.8	1.40
TSS	3.0	1.50
Chrome	0.1	.05
Oil and grease	1.06	.53
Sulfide	0.01	.005
TKN	0.54	.27
Fecal coliform	([1])	([1])
pH	([1])	([1])
	English units (pounds per 1,000 lb of raw material)	
BOD5	2.8	1.40
TSS	3.0	1.50
Chrome	0.1	.05
Oil and grease	1.06	.53
Sulfide	0.01	.005

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
TKN	0.54	.27
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time: 400 counts per 100 ml.

[2] Within the range 6.0 to 9.0.

§ 425.14 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the hair pulp, chrome tan, retan-wet finish subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the hair pulp, chrome tan, retan-wet finish subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 7.0 or greater than 10.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by § 425.14(a) are applicable, shall be in compliance with such standards upon the effective date of that paragraph.

[42 FR 15703, Mar. 23, 1977]

§ 425.15 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	8.0	4.0
TSS	10.0	5.0
Chrome	0.10	.05
Oil and grease	1.06	.53
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD5	8.0	4.0
TSS	10.0	5.0
Chrome	0.20	.10
Oil and grease	1.50	0.75
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hide per day.

§ 425.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the hair pulp unhairing with chrome tanning and finishing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 425.15: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart B—Hair Save Unhairing With Chrome Tanning and Finishing Subcategory

§ 425.20 Applicability; description of the hair save unhairing with chrome tanning and finishing subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from tanneries which chrome tan and finish cattle hides or deer skin after hair save unhairing. This subcategory includes the following tannery types: (a) One which chrome tans and finishes cattle hides after removing the hair by the hair save technique, and (b) one which chrome tans deer skins after removing the hair by the hair save technique.

[39 FR 12960, Apr. 9, 1974, as amended at 42 FR 15703, Mar. 23, 1977]

§ 425.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "hide" shall mean any animal pelt or skin as received by a tannery as raw material to be processed.

(c) The term "skin" shall mean hide.

(d) The term "finish" shall mean the final processing steps performed on a tanned hide including, but not limited to, the following wet processes: Retan, bleach, color and fatliquor.

(e) The term "hair save" shall mean the physical or mechanical removal of hair which has not been chemically dissolved.

(f) The term "chrome tan" shall mean the process of converting hide into leather using a form of chromium.

§ 425.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent level established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	9.2	4.6
TSS	11.6	5.0
Chrome	0.24	.12
Oil and grease	1.80	.90
pH	([1])	([1])
	English units (pounds per 1,000 lb of raw material)	
BOD5	9.2	4.6
TSS	11.6	5.8
Chrome	0.24	.12
Oil and grease	1.80	.90
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	3.2	1.60
TSS	3.6	1.80
Chrome	0.12	.63
Oil and grease	1.26	.63
Sulfide	0.012	.006
TKN	0.64	.32
Fecal coliform	([1])	([1])
pH	([2])	([2])
	English units (pounds per 1,000 lb of raw material)	
BOD5	3.2	1.60
TSS	3.6	1.80
Chrome	0.12	.06
Oil and grease	1.26	.63
Sulfide	0.012	.006
TKN	0.64	.32
Fecal coliform	([1])	([1])
pH	([2])	([2])

[1] Maximum at any time: 400 counts per 100 ml.

[2] Within the range 6.0 to 9.0.

§ 425.24 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the hair save, chrome tan, retan-wet finish subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the hair save, chrome tan, retan-wet finish subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 7.0 or greater than 10.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruc-

tion to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by § 425.24(a) are applicable, shall be in compliance with such standards upon the effective date of that paragraph.

[42 FR 15703, Mar. 23, 1977]

§ 425.25 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	9.2	4.6
TSS	11.6	5.8
Chrome	0.24	.12
Oil and grease	1.80	.90
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD5	9.2	4.6
TSS	11.6	5.8
Chrome	0.24	.12
Oil and grease	1.80	.90
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the hair save unhairing with chrome tanning and finishing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

> In addition to the prohibitions set forth in § 128.131 of this chapter the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 425.25; *Provided*, That, if the publicly owned treatment works is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart C—Unhairing With Vegetable or Alum Tanning and Finishing Subcategory

§ 425.30 Applicability; description of the unhairing with vegetable or alum tanning and finishing subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from tanneries which vegetable or alum tan and finish cattle hides after hair pulp or hair save unhairing. This subcategory includes the following tannery types: (a) One which vegetable tans cattle hides after removing the hair by either the hair save or hair pulp technique and (b) one which alum tans cattle hides after removing the hair by either the hair save or hair pulp technique.

[39 FR 12960, Apr. 9, 1974, as amended at 42 FR 15703, Mar. 23, 1977]

§ 425.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "finish" shall mean the final processing steps performed on a tanned hide including, but not limited to, the following wet processes: Retan, bleach, color and fatliquor.

(c) The term "hair pulp" shall mean the removal of hair by means of chemical dissolution.

(d) The term "hair save" shall mean the physical or mechanical removal of hair which has not been chemically dissolved.

(e) The term "vegetable tan" shall mean the process of converting hide into leather using chemicals either derived from vegetable matter or synthesized to produce effects similar to those of chemicals so derived.

(f) The term "alum tan" shall mean the process of converting animal skin into leather using a form of aluminum.

(g) The term "hide" shall mean any animal pelt or skin as received by a tannery as raw material to be processed.

(h) The term "skin" shall mean hide.

§ 425.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	7.6	3.8
TSS	9.6	4.8
Chrome	0.1	.05
Oil and grease	1.50	.75
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD5	7.6	3.8
TSS	9.6	4.8
Chrome	0.1	.05
Oil and grease	1.50	.75

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	2.6	1.30
TSS	2.8	1.40
Chrome	0.1	.05
Oil and grease	1.0	.50
Sulfide	0.01	.005
TKN	0.5	.25
Fecal coliform	(1)	(1)
pH	(2)	(2)
	English units (pounds per 1,000 lb of raw material)	
BOD5	2.6	1.30
TSS	2.8	1.40
Chrome	0.1	.05
Oil and grease	1.0	.50
Sulfide	0.01	.005
TKN	0.5	.25
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time: 400 counts per 100 ml.

[2] Within the range 6.0 to 9.0.

§ 425.34 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the hair save, non-chrome tan, retan-wet finish subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the hair save, non-chrome tan, retan-wet finish subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 7.0 or greater than 10.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by § 425.34(a) are applicable, shall be in compliance with such standards upon the effective date of that paragraph.

[42 FR 15703, Mar. 23, 1977]

§ 425.35 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	7.6	3.8
TSS	9.6	4.8
Chrome	0.1	.05
Oil and grease	1.50	.75
pH	([1])	([1])
	English units (pounds per 1,000 lb of raw material)	
BOD5	7.6	3.8
TSS	9.6	4.8
Chrome	0.1	.05
Oil and grease	1.50	.75
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the unhairing with vegetable or alum tanning and finishing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter except that, for the purpose of this section, § 128.133 of the chapter shall be amended to read as follows:

> In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 425.35; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart D—Finishing of Tanned Hides Subcategory

§ 425.40 Applicability; description of the finishing of tanned hides subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from tanneries which finish cattle hides, sheep skins or deer skins that have had the hair removed or wool removed and tanned prior to arrival at the tannery. This section includes the following tannery types: (a) One which finishes previously tanned cattle hides, (b) one which finishes previously tanned sheep skins, (c) one which finishes previously tanned deer skins, and (d) one which finishes previously tanned cattle splits.

[39 FR 12960, Apr. 9, 1974, as amended at 42 FR 15703, Mar. 23, 1977]

§ 425.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "finish" shall mean the final processing steps performed on a tanned hide including, but not limited to, the following wet processes: Retan, bleach, color and fatliquor.

(c) The term "hide" shall mean any animal pelt or skin as received by a tannery as raw material to be processed.

(d) The term "skin" shall mean hide.

(e) The term "split" shall mean the nongrain part of a hide which results from a cut parallel to its surface.

§ 425.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	3.2	1.6
TSS	4.0	2.0
Chrome	0.20	.10
Oil and grease	0.50	.25
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD5	3.2	1.6
TSS	4.0	2.0
Chrome	0.20	.10
Oil and grease	0.50	.25
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	1.0	0.50
TSS	1.2	.60
Chrome	0.04	.02
Oil and grease	0.48	.24
Sulfide	0.004	.002
TKN	0.2	.10
Fecal coliform	(1)	(1)
pH	(2)	(2)

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	English units (pounds per 1,000 lb of raw material)	
BOD5	1.0	0.50
TSS	1.2	.60
Chrome	0.04	.02
Oil and grease	0.48	.24
Sulfide	0.004	.002
TKN	0.2	.10
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time: 400 counts per 100 ml.

[2] Within the range 6.0 to 9.0.

§ 425.44 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the retan-wet finish subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the retan-wet finish subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 6.0 or greater than 10.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner of operator of any source to which the pretreatment standards required by § 425.44(a) are applicable, shall be in compliance with such standards upon the effective date of that subsection.

[42 FR 15703, Mar. 23, 1977]

§ 425.45 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants, or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	3.2	1.6
TSS	4.0	2.0
Chrome	0.20	.10
Oil and grease	0.50	.25
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD5	3.2	1.6
TSS	4.0	2.0
Chrome	0.20	.10
Oil and grease	0.50	.25
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the finishing of tanned hides subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 425.45; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart E—Vegetable or Chrome Tanning of Unhaired Hides Subcategory

§ 425.50 Applicability; description of the vegetable or chrome tanning of unhaired hides subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from tanneries which chrome or vegetable tan and finish cattle hides, sheep skins or pig skins that have the hair or wool retained, or hair or wool removed prior to arrival at the tannery. This section includes the following tannery types: (a) One which chrome tans and finishes cattle splits; (b) one which chrome tans and finishes cattle hides which have had hair previously removed; (c) one which vegetable tans and finishes cattle hides which have had hair previously removed; (d) one which vegetable tans and finishes cattle splits; (e) one which chrome tans and finishes pig skins; (f) one which chrome tans and finishes sheep skins which have had wool previously removed; (g) one which vegetable tans and finishes sheep skins which have had wool previously removed; (h) one which both chrome tans and vegetable tans sheep skins which have had wool previously removed; (i) one which chrome tans and finishes sheep skins with the wool retained; and (j) one which vegetable tans and finishes sheep skins with the wool retained.

[39 FR 12690, Apr. 9, 1974, as amended at 42 FR 15703, Mar. 23, 1977]

§ 425.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "hide" shall mean any animal pelt or skin as received by a tannery as raw material to be processed.

(c) The term "skin" shall mean hide.

(d) The term "split" shall mean the nongrain part of a hide which results from a cut parallel to its surface.

(e) The term "finish" shall mean the final processing steps performed on a tanned hide including, but not limited to, the following wet processes: Retan, bleach, color and fatliquor.

(f) The term "chrome tan" shall mean the process of converting hides into leather using a form of chromium.

(g) The term "vegetable tan" shall mean the process of converting hide into leather using chemicals either derived from vegetable matter or synthesized to produce effects similar to those of chemicals so derived.

§ 425.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interest-

ed person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD*5*	9.6	4.8
TSS	12.0	6.0
Chrome	0.12	.06
Oil and grease	1.80	.90
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD*5*	9.6	4.8
TSS	12.0	6.0
Chrome	0.12	.06
Oil and grease	1.80	.90
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD*5*	3.2	1.60
TSS	3.6	1.80
Chrome	0.12	.06
Oil and grease	1.26	.63
Sulfide	0.012	.006
TKN	0.62	.31
Fecal coliform	(1)	(1)
pH	(2)	(2)
	English units (pounds per 1,000 lb of raw material)	
BOD*5*	3.2	1.60
TSS	3.6	1.80
Chrome	0.12	.06
Oil and grease	1.26	.63
Sulfide	0.012	.006
TKN	0.62	.31
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time: 400 counts per 100 ml.
[2] Within the range 6.0 to 9.0.

§ 425.54 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the no beamhouse subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the no beamhouse subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 6.0 or greater than 10.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by § 425.54(a) are applicable, shall be in compliance with such standards upon the effective date of that subsection.

[42 FR 15703, Mar. 23, 1977]

§ 425.55 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	9.6	4.8
TSS	12.0	6.0
Chrome	0.12	.06
Oil and grease	1.80	.90
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD5	9.6	4.8
TSS	12.0	6.0
Chrome	0.12	.06
Oil and grease	1.80	.90
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the vegetable or chrome tanning of unhaired hides subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

> In addition to the prohibitions set forth in § 128.131 of this chapter the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 425.55: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be corre-

spondingly reduced in stringency for that pollutant.

Subpart F—Unhairing With Chrome Tanning and No Finishing Subcategory

§ 425.60 Applicability; description of the unhairing with chrome tanning and no finishing subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from tanneries which chrome tan after either hair pulp or hair save unhairing, but do not finish. This section includes the following tannery types: (a) One which chrome tans but does not finish cattle hides after removing the hair by the hair pulp technique; (b) one which chrome tans but does not finish cattle hides after removing the hair by the hair save technique; (c) one which removes hair from cattle hides by the hair pulp technique; and (d) one which removes hair from cattle hides by the hair save technique.

[39 FR 12960, Apr. 9, 1974, as amended at 42 FR 15704, Mar. 23, 1977]

§ 425.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "hide" shall mean any animal pelt or skin as received by a tannery as raw material to be processed.

(c) The term "skin" shall mean hide.

(d) The term "finish" shall mean the final processing steps performed on a tanned hide including, but not limited to, the following wet processes: Retan, bleach, color and fatliquor.

(e) The term "hair pulp" shall mean the removal of hair by means of chemical dissolution.

(f) The term "hair save" shall mean the physical or mechanical removal of hair which has not been chemically dissolved.

(g) The term "chrome tan" shall mean the process of converting hides into leather using a form of chromium.

§ 425.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	5.6	2.8
TSS	6.8	3.4
Chrome	0.20	.10
Oil and grease	0.70	.35
pH	(1)	(1)
	English units (pounds per 1,000 lb of raw material)	
BOD5	5.6	2.8
TSS	6.8	3.4
Chrome	0.20	.10
Oil and grease	0.70	.35
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one-half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	1.4	0.70
TSS	1.6	.80
Chrome	0.06	.03
Oil and grease	0.68	.34
Sulfide	0.006	.003
TKN	0.28	.14
Fecal coliform	(1)	(1)
pH	(2)	(2)
	English units (pounds per 1,000 lb of raw material)	
BOD5	1.4	0.70
TSS	1.6	.80
Chrome	0.06	.03
Oil and grease	0.68	.34
Sulfide	0.006	.003
TKN	0.28	.14
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time: 400 counts per 100 ml.
[2] Within the range 6.0 to 9.0.

§ 425.64 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the through-the-blue subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the through-the-blue subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 7.0 or greater than 10.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other in-

terference with the proper operation of the publicly owned treatment works.

(4) Pollutants at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by § 425.64(a) are applicable, shall be in compliance with such standards upon the effective date of that paragraph.

[42 FR 15704, Mar. 23, 1977]

§ 425.65 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	5.6	2.8
TSS	6.8	3.4
Chrome	0.20	.10
Oil and grease	0.70	.35
pH	[1]	[1]
	English units (pounds per 1,000 lb of raw material)	
BOD5	5.6	2.8
TSS	6.8	3.4
Chrome	0.20	.10
Oil and grease	0.70	.35
pH	[1]	[1]

[1] Within the range 6.0 to 9.0.

(b) Additional allocations equal to one half the above effluent limitations for BOD5 and TSS established in paragraph (a) of this section are allowed any point source subject to such effluent limitations with a production less than 17,000 kg hides per day.

§ 425.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the unhairing with chrome tanning and no finishing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

> In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 425.65: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart G

§ 425.74 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the shearling subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the shearling subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 6.0 or greater than 10.0,

unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by § 425.74(a) are applicable, shall be in compliance with such standards upon the effective date of that paragraph.

[42 FR 15704, Mar. 23, 1977]

PART 426—GLASS MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Insulation Fiberglass Subcategory

Sec.
426.10 Applicability; description of the insulation fiberglass subcategory.
426.11 Special definitions.
426.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.14 [Reserved]
426.15 Standards of performance for new sources.
426.16 Pretreatment standards for new sources.

Subpart B—Sheet Glass Manufacturing Subcategory

426.20 Applicability; description of the sheet glass manufacturing subcategory.
426.21 Specialized definitions.
426.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
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426.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.24 Pretreatment standards for existing sources.
426.25 Standards of performance for new sources.
426.26 Pretreatment standards for new sources.
426.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart C—Rolled Glass Manufacturing Subcategory

426.30 Applicability; description of the rolled glass manufacturing subcategory.
426.31 Specialized definitions.
426.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.34 Pretreatment standards for existing sources.
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Subpart D—Plate Glass Manufacturing Subcategory

426.40 Applicability; description of the plate glass manufacturing subcategory.
426.41 Specialized definitions.
426.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.43 [Reserved]
426.44 Pretreatment standards for existing sources.
426.45 Standards of performance for new sources.
426.46 Pretreatment standards for new sources.

Subpart E—Float Glass Manufacturing Subcategory

Sec.
426.50 Applicability; description of the float glass manufacturing subcategory.
426.51 Specialized definitions.
426.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.54 [Reserved]
426.55 Standards of performance for new sources.
426.56 Pretreatment standards for new sources.
426.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart F—Automotive Glass Tempering Subcategory

426.60 Applicability; description of the automotive glass tempering subcategory.
426.61 Specialized definitions.
426.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.63 [Reserved]
426.64 Pretreatment standards for existing sources.
426.65 Standards of performance for new sources.
426.66 Pretreatment standards for new sources.
426.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart G—Automotive Glass Laminating Subcategory

426.70 Applicability; description of the automotive glass laminating subcategory.
426.71 Specialized definitions.
426.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

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426.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.74 [Reserved]
426.75 Standards of performance for new sources.
426.76 Pretreatment standards for new sources.
426.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart H—Glass Container Manufacturing Subcategory

426.80 Applicability; description of the glass container manufacturing subcategory.
426.81 Specialized definitions.
426.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.83—426.84 [Reserved]
426.85 Standards of performance for new sources.
426.86 Pretreatment standards for new sources.
426.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart I—Machine Pressed and Blown Glass Manufacturing Subcategory [Reserved]

Subpart J—Glass Tubing (Danner) Manufacturing Subcategory

426.100 Applicability; description of the glass tubing (Danner) manufacturing subcategory.
426.101 Specialized definitions.
426.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.103—426.104 [Reserved]
426.105 Standards for performance for new sources.
426.106 Pretreatment standards for new sources.
426.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart K—Television Picture Tube Envelope Manufacturing Subcategory

Sec.
426.110 Applicability; description of the television picture tube envelope manufacturing subcategory.
426.111 Specialized definitions.
426.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.114 [Reserved]
426.115 Standards of performance for new sources.
426.116 Pretreatment standards for new sources.
426.117 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart L—Incandescent Lamp Envelope Manufacturing Subcategory

426.120 Applicability; description of the incandescent lamp envelope manufacturing subcategory.
426.121 Specialized definitions.
426.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.124 [Reserved]
426.125 Standards of performance for new sources.
426.126 Pretreatment standards for new sources.
426.127 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart M—Hand Pressed and Blown Glass Manufacturing Subcategory

426.130 Applicability; description of the hand pressed and blown glass manufacturing subcategory.
426.131 Specialized definitions.
Sec.
426.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
426.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
426.134 [Reserved]
426.135 Standards of performance for new sources.
426.136 Pretreatment standards for new sources.
426.137 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

AUTHORITY: Secs. 301, 304 (b) and (c); 306 (b) and (c), 307(c) and 316(b), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 and 1317(b)) 86 Stat. 816 et seq., Pub. L. 92-500.

SOURCE: 39 FR 2565, Jan. 22, 1974, unless otherwise noted.

Subpart A—Insulation Fiberglass Subcategory

§ 426.10 Applicability; description of the insulation fiberglass subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of insulation fiberglass in which molten glass is either directly or indirectly made, continuously fiberized and chemically bonded into a wool-like material.

§ 426.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "cullet water" shall mean that water which is exclusively and directly applied to molten glass in order to solidify the glass.

(c) The term "advanced air emission control devices" shall mean air pollution control equipment, such as electrostatic precipitators and high energy scrubbers, that are used to treat an air discharge which has been treated initially by equipment including knockout chambers and low energy scrubbers.

§ 426.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) There shall be no discharge of process waste water pollutants to navigable waters, except as permitted in paragraph (b) of this section.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in process waste water from advanced air emission control devices, when such water cannot be consumed in the process.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
Phenol	0.0006	0.0003
COD	0.33	.165
BOD5	0.024	.012
TSS	0.03	.015
pH	(1)	(1)
	English units (pounds per 1,000 lb. of product)	
Phenol	0.0006	0.0003
COD	0.33	.165
BOD5	0.024	.012
TSS	0.03	.015
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

[39 FR 2565, Jan. 22, 1974; 39 FR 4760, Feb. 7, 1974]

§ 426.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.14 [Reserved]

§ 426.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.16 Pretreatment standards for new sources.

(a) Applicability: The provisions of this section shall apply to discharges of process waste water pollutants into publicly owned treatment works except for that portion of the waste stream which constitutes cullet water.

(b) Pretreatment standards for incompatible pollutants: The pretreatment standards under section 307(c) of the Act for any new source within the insulation fiberglass subcategory, which is a user of a publicly owned treatment works and which would be a new source subject to section 306 of the Act if it were to discharge pollutants to the navigable waters, shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.33 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standards of performance for new sources specified in 40 CFR 426.15; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permits, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart B—Sheet Glass Manufacturing Subcategory

SOURCE: 39 FR 5714, Feb. 14, 1974, unless otherwise noted.

§ 426.20 Applicability; description of the sheet glass manufacturing subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the process in which several mineral ingredients (sand, soda ash, limestone, dolomite, cullen and other ingredients) are mixed, melted in a furnace, and drawn vertically from a melting tank to form sheet glass.

§ 426.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "cullet" shall mean any broken glass generated in the manufacturing process.

§ 426.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: there shall be no discharge of process waste water pollutants to navigable waters.

§ 426.24 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the sheet glass manufacturing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6444, Feb. 11, 1975]

§ 426.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the sheet glass manufacturing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standards set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standards of performance for new sources specified in 40 CFR 426.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

§ 426.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

[44 FR 50746, Aug. 29, 1979]

Subpart C—Rolled Glass Manufacturing Subcategory

SOURCE: 39 FR 5714, Feb. 14, 1974, unless otherwise noted.

§ 426.30 Applicability; description of the rolled glass manufacturing subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the process in which several mineral ingredients (sand, soda ash, limestone, dolomite, cullet, and other ingredients) are mixed, melted in a furnace, and cooled by rollers to form rolled glass.

§ 426.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "cullet" shall mean any broken glass generated in the manufacturing process.

§ 426.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.34 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the rolled glass manufacturing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6444, Feb. 11, 1975]

§ 426.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the rolled glass manufacturing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standards set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standards for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 426.35; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

§ 426.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

[44 FR 50746, Aug. 29, 1979]

Subpart D—Plate Glass Manufacturing Subcategory

SOURCE: 39 FR 5714, Feb. 14, 1974, unless otherwise noted.

§ 426.40 Applicability; description of the plate glass manufacturing subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the process in which several mineral ingredients (sand, soda ash, limestone, dolomite, cullet and other ingredients) are melted in a furnace, pressed between rollers, and finally ground and polished to form plate glass.

§ 426.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "cullet" shall mean any broken glass generated in the manufacturing process.

§ 426.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would effect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for the facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	2.76	.138
pH	(1)	(1)
	English units (lb/ton of product)	
TSS	5.52	2.76
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 426.43 [Reserved]

§ 426.44 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the plate glass manufacturing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6444, Feb. 11, 1975]

§ 426.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the plate glass manufacturing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 426.45; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except

in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart E—Float Glass Manufacturing Subcategory

Source: 39 FR 5714, Feb. 14, 1974, unless otherwise noted.

§ 426.50 Applicability; description of the float glass manufacturing subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the process in which several mineral ingredients (sand, soda ash, limestone, dolomite, cullet, and other ingredients) are mixed, melted in a furnace, and floated on a molten tin bath to produce float glass.

§ 426.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 426.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of product)	
TSS	2.00	2.00
Oil	1.40	1.40
Phosphorus	0.05	.05
pH	(¹)	(¹)
	English units (lb/ton of product)	
TSS	0.0040	0.0040
Oil	0.0028	.0028
Phosphorus	0.0001	.0001
pH	(¹)	(¹)

[1] Within the range 6.0 to 9.0.

§ 426.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kg of product)	
Phosphorus	0.05	.05
	English units (lb/ton of product)	
Phosphorus	0.0001	.0001

[39 FR 5714, Feb. 14, 1974, as amended at 44 FR 50746, Aug. 29, 1979]

§ 426.54 [Reserved]

§ 426.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of product)	
TSS	0.70	0.70
Oil	1.40	1 .40
Phosphorus	0.05	.05
pH	(1)	(1)
	English units (lb/ton of product)	
TSS	0.0014	0.0014
Oil	0.0028	.0028
Phosphorus	0.0001	.0001
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 426.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the float glass manufacturing subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 426.55 provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

§ 426.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

Subpart F—Automotive Glass Tempering Subcategory

SOURCE: 39 FR 5714, Feb. 14, 1974, unless otherwise noted.

§ 426.60 Applicability; description of the automotive glass tempering subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the processes in which glass is cut and then passed through a series of processes that grind and polish the edges, bend the glass, and then temper the glass to produce side and back windows for automobiles.

§ 426.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "tempering" shall mean the process whereby glass is heated near the melting point and then rapidly cooled to increase its mechanical and thermal endurance.

§ 426.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitation set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (q/sq m of product)	
TSS	1.95	1.22
Oil	0.64	.64
pH	([1])	([1])
	English units (lb/1,060 sq ft of product)	
TSS	0.40	0.25
Oil	0.13	.13
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

§ 426.63 [Reserved]

§ 426.64 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the automotive glass tempering subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
Oil	Do.
TSS	Do.

[40 FR 6444, Feb. 11, 1975]

§ 426.65 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/sq m of product)	
TSS	0.24	0.24
Oil	0.49	.49
pH	(1)	(1)
	English units (lb/1,000 sq ft of product)	
TSS	0.05	0.05
Oil	0.10	.10
pH	(1)	(1)

(1) Within the range 6.0 to 9.0.

§ 426.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the automotive glass tempering subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 426.65; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

§ 426.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

Subpart G—Automotive Glass Laminating Subcategory

Source: 39 FR 5714, Feb. 14, 1974, unless otherwise noted.

§ 426.70 Applicability; description of the automotive glass laminating subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the processes which laminate a plastic sheet between two layers of glass, and which prepare the glass for lamination such as cutting, bending and washing, to produce automobile windshields.

§ 426.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 426.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/sq m of product)	
TSS	4.40	4.40
Oil	1.76	1.76
Phosphorus	1.07	1.07
pH	(¹)	(¹)
	English units (lb/1,000 sq ft of product)	
TSS	0.90	0.90
Oil	0.36	.36
Phosphorus	0.22	.22
pH	(¹)	(¹)

[1] Within the range 6.0 to 9.0.

§ 426.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/sq m of products)	
Phosphorus	0.30	.30
	English units (lb/1,000 sq ft of product)	
Phosphorus	0.06	.06

[39 FR 5714, Feb. 14, 1974, as amended at 44 FR 50746, Aug. 29, 1979]

§ 426.74 [Reserved]

§ 426.75 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new point source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/sq m of product)	
TSS	0.88	0.88
Oil	1.76	1.76
Phosphorus	0.30	.30
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
TSS	0.18	0.18
Oil	0.36	.36
Phosphorus	0.06	.06
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 426.76 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the automotive glass laminating subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 426.75; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

§ 426.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

Subpart H—Glass Container Manufacturing Subcategory

Source: 40 FR 2956, Jan. 16, 1975, unless otherwise noted.

§ 426.80 Applicability; description of the glass container manufacturing subcategory.

The provisions of this subpart are applicable to discharges resulting from the process by which raw materials are melted in a furnace and mechanically processed into glass containers.

§ 426.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "furnace pull" shall mean that amount of glass drawn from the glass furnace or furnaces.

(c) The term "oil" shall mean those components of a waste water amenable to measurement by the technique or techniques described in the most recent addition of "Standard Methods" for the analysis of grease in polluted waters, waste waters, and effluents, such as "Standard Methods," 13th Edition, 2nd Printing, page 407.

§ 426.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil	60.0	30.0
TSS	140.0	70.0
pH	(1)	(1)

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/1,000 lb of furnace pull)	
Oil	0.06	0.03
TSS	0.14	0.07
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

§§ 426.83-426.84 [Reserved]

§ 426.85 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil	1.6	0.8
TSS	1.6	0.8
pH	([1])	([1])
	English units (lb/1,000 lb of furnace pull)	
Oil	0.0016	0.0008
TSS	0.0016	0.0008
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

§ 426.86 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the glass container manufacturing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to Section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132, and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart. Because of the recognition that animal and vegetable oils can be adequately removed in a publicly owned treatment works, whereas mineral oil may not be readily removed and may pass through untreated, two separate limitations are established.

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil (animal and vegetable)	([1])	([1])
Oil (mineral)	60.0	30.0
TSS	([1])	([1])
pH	([1])	([1])
	English units (lb/1,000 lb of furnace pull)	
Oil (animal and vegetable)	([1])	([1])
Oil (mineral)	0.06	0.03
TSS	([1])	([1])
pH	([1])	([1])

[1] No limitation.

§ 426.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

Subpart I—Machine Pressed and Blown Glass Manufacturing Subcategory [Reserved]

Subpart J—Glass Tubing (Danner) Manufacturing Subcategory

SOURCE: 40 FR 2957, Jan. 16, 1975, unless otherwise noted.

§ 426.100 Applicability; description of the glass tubing (Danner) manufacturing subcategory.

The provisions of this subpart are applicable to discharges resulting from the process by which raw materials are melted in a furnace and glass tubing mechanically drawn from the furnace horizontally by means of the Danner process, which requires the intermittent quenching of cullet.

§ 426.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "furnace pull" shall mean that amount of glass drawn from the glass furnace or furnaces.

(c) The term "cullet" shall mean any excess glass generated in the manufacturing process.

§ 426.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
TSS	460.0	230.0
pH	(1)	(1)

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/1,000 lb of furnace pull)	
TSS	0.46	0.23
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§§ 426.103—426.104 [Reserved]

§ 426.105 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
TSS	0.4	0.2
pH	(1)	(1)
	English units (lb/1,000 lb of furnace pull)	
TSS	0.0004	0.0002
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 426.106 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the glass tubing (Danner) manufacturing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132, and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

§ 426.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

Subpart K—Television Picture Tube Envelope Manufacturing Subcategory

SOURCE: 40 FR 2957, Jan. 16, 1975, unless otherwise noted.

§ 426.110 Applicability; description of the television picture tube envelope manufacturing subcategory.

The provisions of this subpart are applicable to discharges resulting from the process by which raw materials are melted in a furnace and processed into television picture tube envelopes.

§ 426.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part

401 of this chapter shall apply to this subpart.

(b) The term "furnace pull" shall mean that amount of glass drawn from the glass furnace or furnaces.

(c) The term "oil" shall mean those components of a waste water amenable to measurement by the technique or techniques described in the most recent addition of "Standard Methods" for the analysis of grease in polluted waters, waste waters, and effluents, such as "Standard Methods," 13th Edition, 2nd Printing, page 407.

§ 426.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available. (The fluoride and lead limitations are applicable to the abrasive polishing and acid polishing waste water streams while the TSS, oil, and pH limitations are applicable to the entire process waste water stream):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil	260.0	130.0
TSS	300.0	150.0
Fluoride	140.0	70.0
Lead	39.0	4.5
pH	(1)	(1)
	English units (lb/1,000 lb of furnace pull)	
Oil	0.26	0.13
TSS	0.30	0.15
Fluoride	0.14	0.07
Lead	0.009	0.0045
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 426.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application

of the best available technology economically achievable. These limitations are applicable to the abrasive polishing and acid polishing waste water streams.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Fluoride	120.0	60.0
Lead	0.9	0.45
	English units (lb/1,000 lb of furnace pull)	
Fluoride	0.12	0.06
Lead	0.0009	0.00045

[44 FR 50747, Aug. 29, 1979]

§ 426.114 [Reserved]

§ 426.115 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart (the fluoride and lead limitations are applicable to the abrasive polishing and acid polishing waste water streams while the TSS, oil, and pH limitations are applicable to the entire process waste water stream):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil	260.0	130.0
TSS	260.0	130.0
Fluoride	120.0	60.0
Lead	30.9	0.45
pH	(1)	(1)
	English units (lb/1,000 lb of furnace pull)	
Oil	0.26	0.13
TSS	0.26	0.13
Fluoride	0.12	0.06
Lead	0.0009	0.00045
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 426.116 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the television picture tube envelope manufacturing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132, and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart. Because of the recognition that animal and vegetable oils can be adequately removed in a publicly owned treatment works, whereas mineral oil may not be readily removed and may pass through untreated, two separate limitations are established.

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil (animal and vegetable)	(1)	(1)
Oil (mineral)	260.0	130.0
TSS	(1)	(1)
Fluoride	120.0	60.0
Lead	(1)	(1)
pH	(1)	(1)

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/1,000 lb of furnace pull)	
Oil (animal and vegetable)	(1)	(1)
Oil	0.26	0.13
TSS	(1)	(1)
Fluoride	0.12	0.06
Lead	(1)	(1)
pH	(1)	(1)

[1] No limitation.

§ 426.117 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

Subpart L—Incandescent Lamp Envelope Manufacturing Subcategory

SOURCE: 40 FR 2959, Jan. 16, 1975, unless otherwise noted.

§ 426.120 Applicability; description of the incandescent lamp envelope manufacturing subcategory.

The provisions of this subpart are applicable to discharges resulting from the processes by which (a) raw materials are melted in a furnace and mechanically processed into incandescent lamp envelopes or (b) incandescent lamp envelopes are etched with hydrofluoric acid to produce frosted envelopes.

§ 426.121 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "furnace pull" shall mean that amount of glass drawn from the glass furnace or furnaces.

(c) The term "oil" shall mean those components of a waste water amenable to measurement by the technique or techniques described in the most recent addition of "Standard Methods" for the analysis of grease in polluted waters, waste waters, and effluents, such as "Standard Methods," 13th Edition, 2nd Printing, page 407.

(d) The term "product frosted" shall mean that portion of the "furnace pull" associated with the fraction of finished incandescent lamp envelopes which is frosted; this quantity shall be calculated by multiplying "furnace pull" by the fraction of finished incandescent lamp envelopes which is frosted.

§ 426.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Any manufacturing plant which produces incandescent lamp envelopes shall meet the following limitations with regard to the forming operations.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil	230.0	115.0
TSS	230.0	115.0
pH	(1)	(1)
	English units (lb/1,000 lb of furnace pull)	
Oil	0.23	0.115
TSS	0.23	0.115
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any manufacturing plant which frosts incandescent lamp envelopes shall meet the following limitations with regard to the finishing operations.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of product frosted)	
Fluoride	230.0	115.0
Ammonia	(1)	(1)
TSS	460.0	230.0
pH	(2)	(2)
	English units (lb/1000 lb of product frosted)	
Fluoride	0.23	0.115
Ammonia	(1)	(1)
TSS	0.46	0.23
pH	(2)	(2)

[1] No limitation.
[2] Within the range 6.0 to 9.0.

§ 426.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) Any manufacturing plant which frosts incandescent lamp envelopes shall meet the following limitations with regard to the finishing operations.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of product frosted)	
Fluoride	104.0	52.0
Ammonia	240.0	120.0
	English units (lb/1,000 lb of product frosted)	
Fluoride	0.104	0.052
Ammonia	0.24	0.12

(b) Any manufacturing plant which frosts incandescent lamp envelopes shall meet the following limitations with regard to the finishing operations.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of product frosted)	
Fluoride	104.0	52.0
Ammonia	240.0	120.0
TSS	80.0	40.0
pH	(1)	(1)
	English units (lb/1,000 lb of product frosted)	
Fluoride	0.104	0.052
Ammonia	0.24	0.12
TSS	0.08	0.04
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

[44 FR 50747, Aug. 29, 1979]

§ 426.124 [Reserved]

§ 426.125 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) Any manufacturing plant which produces incandescent lamp envelopes shall meet the following limitations with regard to the forming operations.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil	90.0	45.0
TSS	90.0	45.0
pH	(1)	(1)
	English units (lb/1,000 lb of furnace pull)	
Oil	0.09	0.045
TSS	0.09	0.045
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any manufacturing plant which frosts incandescent lamp envelopes shall meet the following limitations with regard to the finishing operations.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of product frosted)	
Fluoride	104.0	52.0
Ammonia	240.0	120.0
TSS	80.0	40.0
pH	(1)	(1)
	English units (lb/1,000 lb of product frosted)	
Fluoride	0.104	0.052
Ammonia	0.24	0.12
TSS	0.08	0.04
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 426.126 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the incandescent lamp envelope manufacturing subcategory including those plants where: (a) Raw materials are melted in a furnace and mechanically processed into incandescent lamp envelopes or (b) incandescent lamp envelopes are etched with hydrofluoric acid to produce frosted envelopes, which is a user of a publicly owned treatment works, and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132, and 128.133 of this chapter shall not apply. The following pretreatment standards establish the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart, including those plants where (c) raw materials are melted in a furnace and mechanically processed into incandescent lamp envelopes or (d) incandescent lamp envelopes are etched with hydrofluoric acid to produce frosted envelopes. Because of the recognition that animal and vegetable oils can be adequately removed in a publicly owned treatment works, whereas mineral oil may not be readily removed and may pass through untreated, two separate limitations are established.

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (g/kkg of furnace pull)	
Oil (animal and vegetable)	(1)	(1)
Oil (mineral)	230.0	115.0
TSS	(1)	(1)
pH	(1)	(1)
	English units (lb/1,000 lb of furnace pull)	
Oil (animal and vegetable)	(1)	(1)
Oil (mineral)	0.23	0.115
TSS	(1)	(1)
pH	(1)	(1)
	Metric units (g/kkg of product frosted)	
Fluoride	104.0	52.0
Ammonia	(1)	(1)
TSS	(1)	(1)
pH	(1)	(1)
	English units (lb/1,000 lb of product frosted)	
Fluoride	0.104	0.052
Ammonia	(1)	(1)
TSS	(1)	(1)
pH	(1)	(1)

[1] No limitation.

§ 426.127 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

Subpart M—Hand Pressed and Blown Glass Manufacturing Subcategory

SOURCE: 40 FR 2960, Jan. 16, 1975, unless otherwise noted.

§ 426.130 Applicability; description of the hand pressed and blown glass manufacturing subcategory.

The provisions of this subpart are applicable to discharges resulting from the process by which raw materials are melted in a furnace and processed by hand into pressed or blown glassware. This includes those plants which: (a) Produce leaded glass and employ hydrofluoric acid finishing techniques, (b) produce non-leaded glass and employ hydrofluoric acid finishing techniques, or (c) produce leaded or non-leaded glass and do not employ hydrofluoric acid finishing techniques.

§ 426.131 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 426.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundmentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Any plant which melts raw materials, produces hand pressed or blown leaded glassware, employs hydrofluoric acid finishing techniques, and discharges greater than 50 gallons per day of process waste water, shall meet the following limitations.

Effluent characteristic	Effluent limitations
Lead	No limitation.
Fluoride	Do.
TSS	Do.
pH	Do.

(b) Any plant which melts raw materials, produces non-leaded hand pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations
Fluoride	No limitation.
TSS	Do.
pH	Do.

(c) Any plant which melts raw materials, produces leaded or non-leaded hand pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and does not employ hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations
TSS	No limitation.
pH	Do.

§ 426.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application

of the best available technology economically achievable:

(a) Any plant which melts raw materials, produces hand pressed or blown leaded glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Lead	0.2	0.1
Fluoride	26.0	13.0

(b) Any plant which melts raw materials, produces non-leaded hand pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Fluoride	26.0	13.0

(c) Any plant which melts raw materials, produces leaded or non-leaded hand pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and does not employ hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	20.0	10.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

[44 FR 50747, Aug. 29, 1979]

§ 426.134 [Reserved]

§ 426.135 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) Any plant which melts raw materials, produces hand pressed or blown leaded glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Lead	0.2	0.1
Fluoride	26.0	13.0
TSS	20.0	10.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any plant which melts raw materials, produces non-leaded hand pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Fluoride	26.0	13.0
TSS	20.0	10.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(c) Any plant which melts raw materials, produces leaded or non-leaded hand pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and does not employ hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristic	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	20.0	10.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 426.136 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the hand pressed and blown manufacturing subcategory including any plant which melts raw materials and: (a) Produces hand pressed or blown leaded glassware and employs hydrofluoric acid finishing techniques, (b) produces non-leaded hand pressed or blown glassware and employs hydrofluoric acid finishing techniques, or (c) produces leaded or nonleaded hand pressed or blown glassware and does not employ hydrofluoric acid finishing techniques, which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132, and 128.133 of this chapter shall not apply. The following pretreatment standards establish the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart, including any plant which melts raw materials and: (1) Produces hand pressed or blown leaded glassware and employs hydrofluoric acid finishing techniques, (2) produces non-leaded hand pressed or blown glassware and employs hydrofluoric acid finishing techniques, or (3) produces leaded or non-leaded hand pressed or blown glassware and does not employ hydrofluoric acid finishing techniques.

Pollutant or pollutant property	Pretreatment standards (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(a):		
Fluoride	26.0	13.0
Lead	(1)	(1)
TSS	(1)	(1)
pH	(1)	(1)
(b):		
Fluoride	26.0	13.0
Lead	(1)	(1)
TSS	(1)	(1)
pH	(1)	(1)
(c):		
TSS	(1)	(1)
pH	(1)	(1)

[1] No limitation.

§ 426.137 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

[44 FR 50746, Aug. 29, 1979]

PART 427—ASBESTOS MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Asbestos-Cement Pipe Subcategory

Sec.

427.10 Applicability; description of the asbestos-cement pipe subcategory.
427.11 Specialized definitions.
427.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec.
427.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.14 Pretreatment standards for existing sources.
427.15 Standards of performance for new sources.
427.16 Pretreatment standards for new sources.

Subpart B—Asbestos-Cement Sheet Subcategory

427.20 Applicability; description of the asbestos-cement sheet subcategory.
427.21 Specialized definitions.
427.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.24 Pretreatment standards for existing sources.
427.25 Standards of performance for new sources.
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Subpart C—Asbestos Paper (Starch Binder) Subcategory

427.30 Applicability: description of the asbestos paper (starch binder) subcategory.
427.31 Specialized definitions.
427.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.34 Pretreatment standards for existing sources.
427.35 Standards of performance for new sources.
427.36 Pretreatment standards for new sources.

Subpart D—Asbestos Paper (Elastomeric Binder) Subcategory

427.40 Applicability; description of the asbestos paper (elastomeric binder) subcategory.

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427.41 Specialized definitions.
427.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
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427.44 Pretreatment standards for existing sources.
427.45 Standards of performance for new sources.
427.46 Pretreatment standards for new sources.

Subpart E—Asbestos Millboard Subcategory

427.50 Applicability; description of the asbestos millboard subcategory.
427.51 Specialized definitions.
427.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.54 Pretreatment standards for existing sources.
427.55 Standards of performance for new sources.
427.56 Pretreatment standards for new sources.

Subpart F—Asbestos Roofing Subcategory

427.60 Applicability; description of the asbestos roofing subcategory.
427.61 Specialized definitions.
427.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.64 Pretreatment standards for existing sources.
427.65 Standards of performance for new sources.
427.66 Pretreatment standards for new sources.

Subpart G—Asbestos Floor Tile Subcategory

427.70 Applicability; description of the asbestos floor tile subcategory.

Sec.
427.71 Specialized definitions.
427.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.74 Pretreatment standards for existing sources.
427.75 Standards of performance for new sources.
427.76 Pretreatment standards for new sources.

Subpart H—Coating or Finishing of Asbestos Textiles Subcategory

427.80 Applicability; description of the coating or finishing of asbestos textiles subcategory.
427.81 Specialized definitions.
427.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.84 [Reserved]
427.85 Standards of performance for new sources.
427.86 Pretreatment standards for new sources.

Subpart I—Solvent Recovery Subcategory

427.90 Applicability; description of the solvent recovery subcategory.
427.91 Specialized definitions.
427.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.94 [Reserved]
427.95 Standards of performance for new sources.
427.96 Pretreatment standards for new sources.

Sec.
427.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart J—Vapor Absorption Subcategory

427.100 Applicability; description of the vapor absorption subcategory.
427.101 Specialized definitions.
427.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.104 [Reserved]
427.105 Standards of performance for new sources.
427.106 Pretreatment standards for new sources.

Subpart K—Wet Dust Collection Subcategory

427.110 Applicability; description of the wet dust collection subcategory.
427.111 Specialized definitions.
427.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
427.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
427.114 [Reserved]
427.115 Standards of performance for new sources.
427.116 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c), 307(c), Federal Water Pollution Control Act, as amended; 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

SOURCE: 39 FR 7527, Feb. 26, 1974, unless otherwise noted.

Subpart A—Asbestos-Cement Pipe Subcategory

§ 427.10 Applicability; description of the asbestos-cement pipe subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which asbestos. Portland cement, silica and other ingredients are used in the manufacturing of asbestos-cement pipe.

§ 427.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.57	0.19
pH	(1)	(1)
	English units (lb/ton of product)	
TSS	1.14	0.38
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 427.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutants properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.14 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the asbestos-cement pipe subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6444, Feb. 11, 1975]

§ 427.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.57	0.19
pH	(1)	(1)
	English units (lb/ton of product)	
TSS	1.14	0.38
pH	(1)	(1)

(1) Within the range 6.0 to 9.0.

§ 427.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos-cement pipe subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 427.15; *Provided,* That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart B—Asbestos-Cement Sheet Subcategory

§ 427.20 Applicability; description of the asbestos-cement sheet subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which asbestos, Portland cement, silica, and other ingredients are used in the manufacturing of asbestos-cement sheets. Discharges resulting from manufacture of asbestos-cement sheet laboratory tops are specifically excluded from the provisions of this subpart.

§ 427.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.68	0.23
pH	(1)	(1)
	English units (lb/ton of product)	
TSS	1.35	0.45
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 427.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.24 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the asbestos-cement sheet subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6444, Feb. 11, 1975]

§ 427.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste waters pollutants to navigable waters.

§ 427.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos-cement sheet subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 427.25; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart C—Asbestos Paper (Starch Binder) Subcategory

§ 427.30 Applicability; description of the asbestos paper (starch binder) subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which asbestos, starch binders and other ingredients are used in the manufacture of asbestos paper (starch binder).

§ 427.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, those limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.55	0.35
pH	(1)	(1)
	English units (lb/ton of product)	
TSS	1.10	0.70
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 427.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.34 Pretreatment standards for existing sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos paper (starch binder) subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6445, Feb. 11, 1975]

§ 427.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos paper (starch binder) subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 427.35; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible

pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart D—Asbestos Paper (Elastomeric Binder) Subcategory

§ 427.40 Applicability; description of the asbestos paper (elastomeric binder) subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which asbestos, elastomeric binder, and other ingredients are used in the manufacture of asbestos paper (elastomeric binder).

§ 427.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.55	0.35
pH	(1)	(1)
	English units (lb/ton of product)	
TSS	1.10	0.70
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 427.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.44 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the asbestos paper (elastomeric binder) subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6445, Feb. 11, 1975]

§ 427.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.55	0.35
pH	[1]	[1]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/ton of product)	
TSS	.110	0.70
pH	[1]	[1]

[1] Within the range 6.0 to 9.0.

§ 427.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos paper (elastomeric binder) subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 427.45; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart E—Asbestos Millboard Subcategory

§ 427.50 Applicability; description of the asbestos millboard subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which asbestos in combination with various other materials such as cement, starch, clay, lime, and mineral wool are used in the manufacture of asbestos millboard.

§ 427.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.54 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the asbestos millboard subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.12[illegible] 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.

[40 FR 6445, Feb. 11, 1975]

§ 427.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos millboard subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 427.55; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart F—Asbestos Roofing Subcategory

§ 427.60 Applicability; description of the asbestos roofing subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which asbestos paper is saturated with asphalt or coal tar with the subsequent application of various surface treatments to produce asbestos roofing products.

§ 427.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) COD shall mean COD added to the process waste water.

§ 427.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency.

The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	0.015	0.008
TSS	0.010	.006
pH	(¹)	(¹)
	English units (lb/ton of product)	
COD	0.029	0.016
TSS	0.020	.012
pH	(¹)	(¹)

[1] Within the range 6.0 to 9.0.

§ 427.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.64 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the asbestos roofing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
COD	Do.
TSS	Do.

[40 FR 6445, Feb. 11, 1975]

§ 427.65 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos millboard subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 427.65; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart G—Asbestos Floor Tile Subcategory

§ 427.70 Applicability; description of the asbestos floor tile subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which asbestos, polyvinyl chloride resin, chemical stabilizers, limestone, and other fillers are used in the manufacture of asbestos floor tile.

§ 427.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The abbreviation "mpc" shall mean 1000 pieces of floor tile.

(c) The term "pieces" shall mean floor tile measured in the standard size of 12″ × 12″ × 3/32″.

(d) COD shall mean COD added to the process waste water.

§ 427.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/mpc of product)	
COD	0.14	0.09
TSS	0.06	.04
pH	(1)	(1)
	English units (lb/mpc of product)	
COD	0.30	0.18
TSS	0.13	.08
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 427.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.74 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the asbestos floor tile subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
COD	Do.
TSS	Do.

[40 FR 6445, Feb. 11, 1975]

§ 427.75 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 427.76 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the asbestos floor tile subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 427.75: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart H—Coating or Finishing of Asbestos Textiles Subcategory

Source: 40 FR 1875, Jan. 9, 1975, unless otherwise noted.

§ 427.80 Applicability; description of the coating or finishing of asbestos textiles subcategory.

The provisions of this subpart are applicable to discharges resulting from the process of coating or impregnating asbestos textiles with materials which impart specific desired qualities to the finished product.

§ 427.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

[40 FR 1875, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

[40 FR 1875, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.84 [Reserved]

§ 427.85 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

[40 FR 1875, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.86 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the coating or finishing of asbestos textiles subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters) shall be the same standard as set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133

shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
COD	Do.
TSS	Do.

Subpart I—Solvent Recovery Subcategory

SOURCE: 40 FR 1876, Jan. 9, 1975, unless otherwise noted.

§ 427.90 Applicability; description of the solvent recovery subcategory.

The provisions of this subpart are applicable to discharges resulting from the process of solvent recovery in the manufacture of asbestos products.

§ 427.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished asbestos product)	
COD	0.30	0.15
TSS	0.18	0.09
pH	(1)	(1)
	English units (lbs/1,000 lbs of finished asbestos product)	
COD	0.30	0.15
TSS	0.18	0.09
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 427.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished asbestos products)	
COD	0.30	0.15
	English units (lb/1,000 lb of finished asbestos products)	
COD	0.30	0.15

[44 FR 50747, Aug. 29, 1979]

§ 427.94 [Reserved]

§ 427.95 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished asbestos product)	
COD	0.30	0.15
TSS	0.18	0.09
pH	(1)	(1)
	English units (lbs/1,000 lbs of finished asbestos product)	
COD	0.30	0.15
TSS	0.18	0.09
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 427.96 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the solvent recovery subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
COD	Do.
TSS	Do.

§ 427.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished asbestos products)	
TSS	0.18	0.09

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
pH	(1)	(1)
	English units (lb/1,000 lb of finished asbestos products)	
TSS	0.18	0.09
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

[44 FR 50747, Aug. 29, 1979]

Subpart J—Vapor Absorption Subcategory

SOURCE: 40 FR 1876, Jan. 9, 1975, unless otherwise noted.

§ 427.100 Applicability; description of the vapor absorption subcategory.

The provisions of this subpart are applicable to discharges resulting from the removal of volatilized organic materials from atmospheric emissions by means of wet scrubbers.

§ 427.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart:

§ 427.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop, and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

[40 FR 1877, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

[40 FR 1877, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.104 [Reserved]

§ 427.105 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

[40 FR 1877, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.106 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the vapor absorption subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
COD	Do.
TSS	Do.

Subpart K—Wet Dust Collection Subcategory

Source: 40 FR 1877, Jan. 9, 1975, unless otherwise noted.

§ 427.110 Applicability; description of the wet dust collection subcategory.

The provisions of this subpart are applicable to discharges resulting from the removal of dust (particulates) from atmospheric emissions by means of wet scrubbers.

§ 427.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 427.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/1,000 std cu m of air scrubbed)	
TSS	0.08	0.04
pH	[1]	[1]
	English units (lbs/MM std cu ft of air scrubbed)	
TSS	5.0	2.50
pH	[1]	[1]

[1] Within the range 6.0 to 9.0.

[40 FR 1877, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of waste water pollutants to navigable waters.

§ 427.114 [Reserved]

§ 427.115 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

[40 FR 1877, Jan. 9, 1975; 40 FR 18172, Apr. 25, 1975]

§ 427.116 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the wet dust collection subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
COD	Do.
TSS	Do.

PART 428—RUBBER MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Tire and Inner Tube Plants Subcategory

Sec.
428.10 Applicability; description of the tire and inner tube plants subcategory.
428.11 Specialized definitions.

428.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.14 [Reserved]
428.15 Standards of performance for new sources.
428.16 Pretreatment standards for new sources.

Subpart B—Emulsion Crumb Rubber Subcategory

428.20 Applicability; description of the emulsion crumb rubber subcategory.
428.21 Specialized definitions.
428.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.24 [Reserved]
428.25 Standards of performance for new sources.

Subpart C—Solution Crumb Rubber Subcategory

428.30 Applicability; description of the solution crumb rubber subcategory.
428.31 Specialized definitions.
428.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
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Subpart D—Latex Rubber Subcategory

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428.40 Applicability; description of the latex rubber subcategory.
428.41 Specialized definitions.
428.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
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Subpart E—Small-Sized General Molded, Extruded, and Fabricated Rubber Plants Subcategory

428.50 Applicability; description of the small-sized general molded, extruded, and fabricated rubber plants subcategory.
428.51 Specialized definitions.
428.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.54 [Reserved]
428.55 Standards of performance for new sources.
428.56 Pretreatment standards for new sources.

Subpart F—Medium-Sized General Molded, Extruded, and Fabricated Rubber Plants Subcategory

428.60 Applicability; description of the medium-sized general molded, extruded, and fabricated rubber plants subcategory.
428.61 Specialized definitions.
428.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Sec.
428.64 [Reserved]
428.65 Standards of performance for new sources.
428.66 Pretreatment standards for new sources.

Subpart G—Large-Sized General Molded, Extruded, and Fabricated Rubber Plants Subcategory

428.70 Applicability; description of the large-sized general molded, extruded, and fabricated rubber plants subcategory.
428.71 Specialized definitions.
428.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.74 [Reserved]
428.75 Standards of performance for new sources.
428.76 Pretreatment standards for new sources.

Subpart H—Wet Digestion Reclaimed Rubber Subcategory

428.80 Applicability; description of the wet digestion reclaimed rubber subcategory.
428.81 Specialized definitions.
428.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.84 [Reserved]
428.85 Standards of performance for new sources.
428.86 Pretreatment standards for new sources.

Subpart I—Pan, Dry Digestion, and Mechanical Reclaimed Rubber Subcategory

428.90 Applicability; description of the pan, dry digestion, and mechanical reclaimed rubber subcategory.
428.91 Specialized definitions.
428.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
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428.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.94 [Reserved]
428.95 Standards of performance for new sources.
428.96 Pretreatment standards for new sources.

Subpart J—Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber Subcategory

428.100 Applicability; description of the latex-dipped, latex-extruded, and latex-molded rubber subcategory.
428.101 Specialized definitions.
428.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.104 [Reserved]
428.105 Standards of performance for new sources.
428.106 Pretreatment standards for new sources.

Subpart K—Latex Foam Subcategory

428.110 Applicability; description of the latex foam subcategory.
428.111 Specialized definitions.
428.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
428.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
428.114 [Reserved]
428.115 Standards of performance for new sources.
428.116 Pretreatment standards for new sources.

AUTHORITY: Sec. 301, 304(b) and (c), 306(b) and (c), 307(c), Federal Water Pollution Control Act, as amended; 33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and (c), 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

SOURCE: 39 FR 6662, Feb. 21, 1974, unless otherwise noted.

Subpart A—Tire and Inner Tube Plants Subcategory

§ 428.10 Applicability; description of the tire and inner tube plants subcategory.

The provisions of this subpart are applicable to discharges of process wastewater pollutants resulting from the production of pneumatic tires and inner tubes in tire and inner tube plants.

[40 FR 18173, Apr. 25, 1975]

§ 428.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "raw material" shall mean all natural and synthetic rubber, carbon black, oils, chemical compounds, fabric and wire used in the manufacture of pneumatic tires and inner tubes or components thereof.

(c) The term "process waste water" shall mean, in the case of tire and inner tube plants constructed before 1959, discharges from the following: Soapstone solution applications; steam cleaning operations; air pollution control equipment; unroofed process oil unloading areas; mold cleaning operations; latex applications; and air compressor receivers. Discharges from other areas of such plants shall not be classified as process waste water for the purposes of this section.

(d) Except as provided in paragraphs (c) and (e) of this section, the term "process waste water" shall have the meaning set forth in § 401.11(q) of this chapter.

(e) Water used only for tread cooling shall be classified as "nonprocess waste water."

[39 FR 6662, Feb. 21, 1974, as amended at 40 FR 18173, Apr. 25, 1975]

§ 428.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
TSS	0.096	0.064
Oil and grease	0.024	.016
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
TSS	0.096	0.064
Oil and grease	0.024	.016
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) All plants constructed before 1959 shall employ the best practicable maintenance and housekeeping practices in order to minimize the discharge of oil and grease in nonprocess waste waters. The concentration of oil and grease in discharges of nonprocess waste water shall meet the following limitations:

(1) The average of daily values for 30 consecutive days shall not exceed 5 mg/l.

(2) The maximum for any one day shall not exceed 10 mg/l.

[39 FR 6662, Feb. 21, 1974; 39 FR 26423, July 19, 1974, as amended at 40 FR 18173, Apr. 25, 1975]

§ 428.13 Effluent limitations guidelines, representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
TSS	0.096	0.064
Oil and grease	0.024	.016
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
TSS	0.096	0.064
Oil and grease	0.024	.016
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) All plants constructed before 1959 shall employ the best available maintenance and housekeeping practices in order to minimize the discharge of oil and grease in nonprocess waste waters. The concentration of oil and grease in discharges of nonprocess waste waters shall meet the following limitations:

(1) The average of daily values for 30 consecutive days shall not exceed 5 mg/l.

(2) The maximum for any one day shall not exceed 10 mg/l.

[39 FR 6662, Feb. 21, 1974; 39 FR 26423, July 19, 1974, as amended at 40 FR 18173, Apr. 25, 1975]

§ 428.14 [Reserved]

§ 428.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
TSS	0.096	180.064
Oil and grease	0.024	.016
pH	(1)	(1)

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/1,000 lb of raw material)	
TSS	0.096	0.064
Oil and grease	0.024	.016
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

[39 FR 6662, Feb. 21, 1974; 39 FR 26423, July 19, 1974]

§ 428.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the tire and inner tube plants subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 428.15; *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart B—Emulsion Crumb Rubber Subcategory

§ 428.20 Applicability; description of the emulsion crumb rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of emulsion crumb rubber, other than acrylonitrilebutadiene rubber.

[40 FR 18173, Apr. 25, 1975]

§ 428.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

[39 FR 6662, Feb. 21, 1974, as amended at 40 FR 18173, Apr. 25, 1975]

§ 428.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be ap-

proved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	12.00	8.00
BOD5	0.60	.40
TSS	0.98	.65
Oil and grease	0.24	.16
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
COD	12.00	8.00
BOD5	0.60	.40
TSS	0.98	.65
Oil and grease	0.24	.16
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	3.12	2.08
BOD5	0.12	.08
TSS	0.24	.16
Oil and grease	0.12	.08
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
COD	3.12	2.08
BOD5	0.12	.08
TSS	0.24	.16
Oil and grease	0.12	.08
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.24 [Reserved]

§ 428.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: The limitations shall be as specified in § 428.22.

Subpart C—Solution Crumb Rubber Subcategory

§ 428.30 Applicability; description of the solution crumb rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of crumb rubber.

§ 428.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

[39 FR 6662, Feb. 21, 1974, as amended at 40 FR 18173, Apr. 25, 1975]

§ 428.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	5.91	3.94
BOD5	0.60	.40
TSS	0.98	.65
Oil and grease	0.24	.16
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
COD	5.91	3.94
BOD5	0.60	.40
TSS	0.98	.65
Oil and grease	0.24	.16
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	3.12	2.08
BOD5	0.12	.08
TSS	0.24	.16
Oil and grease	0.12	.08
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
COD	3.12	2.08
BOD5	0.12	.08

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	0.24	.16
Oil and grease	0.12	.08
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.34 [Reserved]

§ 428.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: The limitations shall be as specified in § 428.32.

Subpart D—Latex Rubber Subcategory

§ 428.40 Applicability; description of the latex rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of latex rubber.

§ 428.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

[39 FR 6662, Feb. 21, 1974, as amended at 40 FR 18173, Apr. 25, 1975]

§ 428.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) and factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	10.27	6.85
BOD5	0.51	.34
TSS	0.82	.55
Oil and grease	0.21	.14
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
COD	10.27	6.85
BOD5	0.51	.34
TSS	0.82	.55
Oil and grease	0.21	.14
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	2.66	1.78
BOD5	0.11	.07
TSS	0.21	.14
Oil and grease	0.11	.07
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
COD	2.66	1.78
BOD5	0.11	.07
TSS	0.21	.14
Oil and grease	0.11	.07
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.44 [Reserved]

§ 428.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new point source subject to the provisions of this subpart: The limitations shall be as specified for § 428.42.

§ 428.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the latex rubber subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 428.45; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart E—Small-Sized General Molded, Extruded, and Fabricated Rubber Plants Subcategory

Source: 40 FR 2336, Jan. 10, 1975, unless otherwise noted.

§ 428.50 Applicability; description of the small-sized general molded, extruded, and fabricated rubber plants subcategory.

The following provisions of this subpart are applicable to process waste water discharges resulting from the production of molded, extruded, and fabricated rubber products, foam rubber backing, rubber cement-dipped goods, and retreaded tires by small-sized plants. Specifically excluded from the provisions of this subpart are the discharges resulting from the production of latex-based products, tires and inner tubes, and those discharges from textile plants subject to the provisions of Part 410 of this chapter.

§ 428.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "raw material" shall mean all natural and synthetic rubber, carbon black, oils, chemical compounds, and fabric used in the manufacture of general molded, extruded, and fabricated rubber products.

(c) The term "raw material equivalent" shall be equal to the raw material usage multiplied by the volume of air scrubbed via wet scrubbers divided by the total volume of air scrubbed.

(d) The term "small-sized plants" shall mean plants which process less than 3,720 kg/day (8,200 lbs/day) of raw materials.

§ 428.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.70	0.25
TSS	1.28	0.64
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.70	0.25
TSS	1.28	0.65
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.52(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to wet scrubbers, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.52(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material equivalent)	
TSS	5.8	2.9
	English units (lb/1,000 lb of raw material equivalent)	
TSS	5.8	2.9

§ 428.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.70	0.25
TSS	1.28	0.64
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.70	0.25
TSS	1.28	0.64
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable, in addition to the limitations set forth by § 428.53(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to wet scrubbers, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable, in addition to the limitations set forth by § 428.53(a):

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material equivalent)	
TSS	1.0	0.5
	English units (lb/1,000 lb of raw material equivalent)	
TSS	1.0	0.5

§ 428.54 [Reserved]

§ 428.55 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.70	0.25
TSS	1.28	0.64
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.70	0.25
TSS	1.28	0.64
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged by a new source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.55(a):

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

§ 428.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the small-sized general molded, extruded, and fabricated rubber plants subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.
Oil and grease	100 mg/l daily maximum.

(b) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.56(a):

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for thirty consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

Subpart F—Medium-Sized General Molded, Extruded, and Fabricated Rubber Plants Subcategory

SOURCE: 40 FR 2338, Jan. 10, 1975, unless otherwise noted.

§ 428.60 Applicability; description of the medium-sized general molded, extruded, and fabricated rubber plants subcategory.

The following provisions of this subpart are applicable to process waste water discharges resulting from the production of molded, extruded, and fabricated rubber products, foam rubber backing, rubber cement-dipped goods, and retreaded tires by medium-sized plants. Specifically excluded from the provisions of this subpart are the discharges resulting from the production of latex-based products, tires and inner tubes, and those discharges from textile plants subject to the provisions of Part 410 of this chapter.

§ 428.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "raw material" shall mean all natural and synthetic rubber, carbon black, oils, chemical compounds, and fabric used in the manufacture of general molded, extruded, and fabricated rubber products.

(c) The term "raw material equivalent" shall be equal to the raw material usage multiplied by the volume of air scrubbed via wet scrubbers divided by the total volume of air scrubbed.

(d) The term "medium-sized plants" shall mean plants which process between 3,720 kg/day (8,200 lbs/day) and 10,430 kg/day (23,000 lbs/day) of raw materials.

§ 428.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.42	0.15
TSS	0.80	0.40
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.42	0.15
TSS	0.80	0.40
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to leadsheathed hose production, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.62(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to wet scrubbers, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.62(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material equivalent)	
TSS	5.8	2.9
	English units (lb/1,000 lb of raw material equivalent)	
TSS	5.8	2.9

§ 428.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.42	0.15
TSS	0.80	0.40
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.42	0.15
TSS	0.80	0.40
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable, in addition to the limitations set forth by § 428.63(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to wet scrubbers, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable, in addition to the limitations set forth by § 428.63:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material equivalent)	
TSS	1.0	0.5
	English units (lb/1,000 lb of raw material equivalent)	
TSS	1.0	0.5

§ 428.64 [Reserved]

§ 428.65 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.42	0.15
TSS	0.80	0.40
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.42	0.0
TSS	0.80	0.4
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged by a new source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.65(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

§ 428.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the medium-sized general molded, extruded, and fabricated rubber plants subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.
Oil and grease	100 mg/l daily maximum.

(b) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.66(a):

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for thirty consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

Subpart G—Large-Sized General Molded, Extruded, and Fabricated Rubber Plants Subcategory

SOURCE: 40 FR 2340, Jan. 10, 1975, unless otherwise noted.

§ 428.70 Applicability; description of the large-sized general molded, extruded, and fabricated rubber plants subcategory.

The following provisions of this subpart are applicable to process waste water discharges resulting from the production of molded, extruded, and fabricated rubber products, foam rubber backing, rubber cement-dipped goods, and retreaded tires by large-sized plants. Specifically excluded from the provisions of this subpart are the discharges resulting from the production of latex-based products, tires and inner tubes, and those discharges from textile plants subject to the provisions of Part 410 of this chapter.

§ 428.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "raw material" shall mean all natural and synthetic rubber, carbon black, oils, chemical compounds, and fabric used in the manufacture of general molded, extruded, and fabricated rubber products.

(c) The term "raw material equivalent" shall be equal to the raw material usage multiplied by the volume of air scrubbed via wet scrubbers divided by the total volume of air scrubbed.

(d) The term "large-sized plants" shall mean plants which process more than 10,430 kg/day (23,000 lbs/day) of raw materials.

§ 428.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.26	0.093
TSS	0.50	0.25
pH	([1])	([1])
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.26	0.093
TSS	0.50	0.25
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.72(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to wet scrubbers, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.72(a):

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material equivalent)	
Lead	5.8	2.9
	English units (lb/1,000 lb of raw material equivalent)	
Lead	5.8	2.9

§ 428.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.26	0.093
TSS	0.50	0.25
pH	([1])	([1])
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.26	0.093
TSS	0.50	0.25
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to lead-sheathed hose production, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable, in addition to the limitations set forth by § 428.73(a):

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to wet scrubbers, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable, in addition to the limitations set forth by § 428.73(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material equivalent)	
Lead	1.0	0.5
	English units (lb/1,000 lb of raw material equivalent)	
Lead	1.0	0.5

§ 428.74 [Reserved]

§ 428.75 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	0.26	0.093
TSS	0.50	0.25
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	0.26	0.093
TSS	0.50	0.25
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to lead-sheathed hose production, which may be discharged by a new source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.75(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

§ 428.76 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the large-sized general molded, extruded, and fabricated rubber plants subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.
Oil and grease	100 mg/l daily maximum.

(b) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section, and attributable to lead-sheathed hose production, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.76(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Lead	0.0017	0.0007
	English units (lb/1,000 lb of raw material)	
Lead	0.0017	0.0007

Subpart H—Wet Digestion Reclaimed Rubber Subcategory

SOURCE: 40 FR 2341, Jan. 10, 1975, unless otherwise noted.

§ 428.80 Applicability; description of the wet digestion reclaimed rubber subcategory.

The provisions of this subpart are applicable to process waste water discharges resulting from the production of reclaimed rubber by use of the wet digestion process.

§ 428.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 428.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	14.7	6.11
Oil and grease	0.40	0.144
TSS	1.04	0.52

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
COD	14.7	6.11
Oil and grease	0.40	0.144
TSS	1.04	0.52
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 428.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	14.7	6.11
Oil and grease	0.40	0.144
TSS	1.04	0.52
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
COD	14.7	6.11
Oil and grease	0.40	0.144
TSS	1.04	0.52
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 428.84 [Reserved]

§ 428.85 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	14.7	6.11
Oil and grease	0.40	0.144
TSS	1.04	0.52
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
COD	14.7	6.11
Oil and grease	0.40	0.144
TSS	1.04	0.52
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 428.86 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the wet digestion reclaimed rubber subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	14.7	6.11
Oil and grease	(1)	(1)
TSS	(2)	(2)
pH	(2)	(2)
	English units (lb/1,000 lb of product)	
COD	14.7	6.11
Oil and grease	(1)	(1)
TSS	(2)	(2)
pH	(2)	(2)

[1] 100 mg/l.

[2] No limitation.

Subpart I—Pan, Dry Digestion, and Mechanical Reclaimed Rubber Subcategory

SOURCE: 40 FR 2342, Jan. 10, 1975, unless otherwise noted.

§ 428.90 Applicability; description of the pan, dry digestion, and mechanical reclaimed rubber subcategory.

The provisions of this subpart are applicable to process waste water discharges resulting from the production of reclaimed rubber except when produced by the wet digestion process.

§ 428.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 428.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
Oil and grease	0.40	0.144
TSS	0.384	0.192
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
Oil and grease	0.40	0.144
TSS	0.384	0.192
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to pan, dry digestion, and mechanical reclaimed rubber processes which are integrated with a wet digestion reclaimed process, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.92(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	6.7	2.8
	English units (lb/1,000 lb of product)	
COD	6.7	2.8

§ 428.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
Oil and grease	0.40	0.144
TSS	0.384	0.192
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
Oil and grease	0.40	0.144
TSS	0.384	0.192
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to pan, dry digestion, and mechanical reclaimed rubber processes which are integrated with a wet digestion reclaimed rubber process, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable in addition to the limitations set forth by § 428.93(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	6.7	2.8
	English units (lb/1,000 lb of product)	
COD	6.7	2.8

§ 428.94 [Reserved]

§ 428.95 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
Oil and grease	0.40	0.144
TSS	0.384	0.192
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
Oil and grease	0.40	0.144
TSS	0.384	0.192
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to pan, dry digestion, and mechanical reclaimed rubber processes which are integrated with a wet digestion reclaimed rubber process, which may be discharged by a new source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.95:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	6.7	2.8
	English units (lb/1,000 lb of product)	
COD	6.7	2.8

§ 428.96 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the pan, dry digestion, and mechanical reclaimed rubber subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
TSS	Do.
Oil and grease	100 mg/l daily maximum.

(b) The following pretreatment standard establishes the quantity or quality or pollutant properties controlled by this section and attributable to pan, dry digestion, and mechanical reclaimed rubber processes which are integrated with a wet digestion reclaimed rubber process, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.96(a):

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
COD	6.7	2.8

Pollutant or pollutant property	Pretreatment standards Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/1,000 lb of product)	
COD	6.7	2.8

Subpart J—Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber Subcategory

SOURCE: 40 FR 2344, Jan. 10, 1975, unless otherwise noted.

§ 428.100 Applicability; description of the latex-dipped, latex-extruded, and latex-molded rubber subcategory.

The provisions of this subpart are applicable to process waste water discharges resulting from the manufacture of latex-dipped, latex-extruded, and latex-molded products with the exception of those discharges from textile plants subject to the provisions of Part 410 of this chapter.

§ 428.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "chromium" shall mean total chromium.

(c) The term "raw material" shall mean all latex solids used in the manufacture of latex-dipped, latex-extruded, and latex-molded products.

§ 428.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	2.0	0.73

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
BOD5	3.72	2.20
TSS	6.96	2.90
pH	(¹)	(¹)
	English units (lb/1,000 lb of raw material)	
Oil and grease	2.0	0.73
BOD5	3.72	2.20
TSS	6.96	2.90
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to plants employing the chromic acid form-cleaning operation, by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, in addition to the limitations set forth by § 428.102(a):

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Chromium	0.0086	0.0036
	English units (lb/1,000 lb of raw material)	
Chromium	0.0086	0.0036

§ 428.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	2.0	0.73
BOD5	3.72	2.20
TSS	6.96	2.90
pH	(¹)	(¹)
	English units (lb/1,000 lb of raw material)	
Oil and grease	2.0	0.73
BOD5	3.72	2.20
TSS	6.96	2.90
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to plants employing the chromic acid form-cleaning operation, by a point source subject to the provisions of this subpart after application of the best available technology economically achievable, in addition to the limitations set forth by § 428.103(a):

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Chromium	0.0086	0.0036
	English units (lb/1,000 lb of raw material)	
Chromium	0.0086	0.0036

§ 428.104 [Reserved]

§ 428.105 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Oil and grease	2.0	0.73
BOD5	3.72	2.20
TSS	6.96	2.90
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Oil and grease	2.0	0.73
BOD5	3.72	2.20
TSS	6.96	2.90
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, and attributable to plants employing the chromic acid form-cleaning operation, which may be discharged by a new source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.102(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Chromium	0.0086	0.0036
	English units (lb/1,000 lb of raw material)	
Chromium	0.0086	0.0036

§ 428.106 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the latex-dipped, latex-extruded, and latex-molded rubber subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.
Oil and grease	100 mg/l daily maximum.

(b) The following pretreatment standard establishes the quantity or quality of pollutant properties controlled by this section and attributable to plants employing the chromic acid form-cleaning operation, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart, in addition to the limitations set forth by § 428.106(a):

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Chromium	0.0086	0.0036
	English units (lb/1,000 lb of raw material)	
Chromium	0.0086	0.0036

Subpart K—Latex Foam Subcategory

SOURCE: 40 FR 2345, Jan. 10, 1975, unless otherwise noted.

§ 428.110 Applicability; description of the latex foam subcategory.

The provisions of this subpart are applicable to process waste water discharges resulting from the manufacture of latex foam except for those discharges from textile plants subject to the provisions of Part 410 of this chapter.

§ 428.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "raw material" shall mean all latex solids used in the manufacture of latex foam.

§ 428.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Zinc	0.058	0.024
BOD5	2.4	1.4
TSS	2.26	0.94
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Zinc	0.058	0.024
BOD5	2.4	1.4
TSS	2.26	0.94
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application

of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Zinc	0.058	0.024
BOD5	2.4	1.4
TSS	2.26	0.94
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Zinc	0.058	0.024
BOD5	2.4	1.4
TSS	2.26	0.94
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.114 [Reserved]

§ 428.115 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Zinc	0.058	0.024
BOD5	2.4	1.4
TSS	2.26	0.94
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Zinc	0.058	0.024
BOD5	2.4	1.4
TSS	2.26	0.94
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 428.116 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a new source within the latex foam subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Zinc	0.058	0.024
BOD5	(1)	(1)
TSS	(1)	(1)
pH	(1)	(1)
	English units (lb/1,000 lb of raw material)	
Zinc	0.058	0.024
BOD5	(1)	(1)
TSS	(1)	(1)
pH	(1)	(1)

[1] No limitation.

PART 429—TIMBER PRODUCTS PROCESSING POINT SOURCE CATEGORY

GENERAL PROVISIONS

Sec.
429.10 Applicability.
429.11 General definitions.

Sec.
429.12 Monitoring requirements [Reserved]

Subpart A—Barking Subcategory

429.20 Applicability; description of the barking subcategory.
429.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
429.24 New source performance standards (NSPS).
429.25 Pretreatment standards for existing sources (PSES).
429.26 Pretreatment standards for new sources (PSNS).

Subpart B—Veneer Subcategory

429.30 Applicability; description of the veneer subcategory.
429.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.34 New source performance standards (NSPS).
429.35 Pretreatment standards for existing sources (PSES).
429.36 Pretreatment standards for new sources (PSNS).

Subpart C—Plywood Subcategory

429.40 Applicability; description of the plywood subcategory.
429.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
Sec.
429.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.44 New source performance standards (NSPS).
429.45 Pretreatment standards for existing sources (PSES).
429.46 Pretreatment standards for new sources (PSNS).

Subpart D—Dry Process Hardboard Subcategory

429.50 Applicability; description of the dry process hardboard subcategory.
429.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.54 New source performance standards (NSPS).
429.55 Pretreatment standards for existing sources (PSES).
429.56 Pretreatment standards for new sources (PSNS).

Subpart E—Wet Process Hardboard Subcategory

429.60 Applicability; description of the wet process hardboard subcategory.
429.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.62 [Reserved]
429.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
429.64 New source performance standards (NSPS).
429.65 Pretreatment standards for existing sources (PSES).

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429.66 Pretreatment standards for new sources (PSNS).

Subpart F—Wood Preserving—Water Borne or Nonpressure Subcategory

429.70 Applicability; description of the wood preserving—water borne or nonpressure subcategory.
429.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.74 New source performance standards (NSPS).
429.75 Pretreatment standards for existing sources (PSES).
429.76 Pretreatment standards for new sources (PSNS).

Subpart G—Wood Preserving—Steam Subcategory

429.80 Applicability; description of the wood preserving—steam subcategory.
429.81 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
429.84 New source performance standards (NSPS).
249.85 Pretreatment standards for existing sources (PSES).
429.86 Pretreatment standards for new sources (PSNS).

Subpart H—Wood Preserving—Boulton Subcategory

429.90 Applicability; description of the wood preserving—Boulton subcategory.
429.91 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.94 New source performance standards (NSPS).
429.95 Pretreatment standards for existing sources (PSES).
429.96 Pretreatment standards for new sources (PSNS).

Subpart I—Wet Storage Subcategory

429.100 Applicability; description of the wet storage subcategory.
429.101 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.104 New source performance standards (NSPS).
429.105 Pretreatment standards for existing sources (PSES).
429.106 Pretreatment standards for new sources (PSNS).

Subpart J—Log Washing Subcategory

429.110 Applicability; description of the log washing subcategory.
429.111 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Sec.

429.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

429.114 New source performance standards (NSPS).

429.115 Pretreatment standards for existing sources (PSES).

429.116 Pretreatment standards for new sources (PSNS).

Subpart K—Sawmills and Planing Mills Subcategory

429.120 Applicability; description of the sawmills and planing mills subcategory.

429.121 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

429.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

429.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

429.124 New source performance standards (NSPS).

429.125 Pretreatment standards for existing sources (PSES).

429.126 Pretreatment standards for new sources (PSNS).

Subpart L—Finishing Subcategory

429.130 Applicability; description of the finishing subcategory.

429.131 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

429.132 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

429.133 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

429.134 New source performance standards (NSPS).

429.135 Pretreatment standards for existing sources (PSES).

429.136 Pretreatment standards for new sources (PSNS).

Subpart M—Particleboard Manufacturing Subcategory

Sec.

429.140 Applicability; description of the particleboard manufacturing subcategory.

419.141 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

429.142 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

429.143 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

429.144 New source performance standards (NSPS).

429.145 Pretreatment standards for existing sources (PSES).

429.146 Pretreatment standards for new sources (PSNS).

Subpart N—Insulation Board Subcategory

429.150 Applicability; description of the insulation board subcategory.

429.151 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

429.152 [Reserved]

429.153 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

429.154 New source performance standards (NSPS).

429.155 Pretreatment standards for existing sources (PSES).

429.156 Pretreatment standards for new sources (PSNS).

Subpart O—Wood Furniture and Fixture Production Without Water Wash Spray Booth(s) or Without Laundry Facilities Subcategory

429.160 Applicability; description of the wood furniture and fixture production without water wash spray booth(s) or without laundry facilities subcategory.

429.161 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Sec.
429.162 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.163 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.164 New source performance standards (NSPS).
429.165 Pretreatment standards for existing sources (PSES).
429.166 Pretreatment standards for new sources (PSNS).

Subpart P—Wood Furniture and Fixture Production With Water Wash Spray Booth(s) or With Laundry Facilities Subcategory

429.170 Applicability; description of the wood furniture and fixture production with water wash spray booth(s) or with laundry facilities subcategory.
429.171 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
429.172 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
429.173 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
429.174 New source performance standards (NSPS).
429.175 Pretreatment standards for existing sources (PSES).
429.176 Pretreatment standards for new sources (PSNS).

AUTHORITY: Secs. 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(a)(b) and (c) and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 815, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

SOURCE: 46 FR 8285, Jan. 26, 1981, unless otherwise noted.

GENERAL PROVISIONS

§ 429.10 Applicability.

This part applies to any timber products processing operation, and any plant producing insulation board with wood as the major raw material, which discharges or may discharge process wastewater pollutants to the waters of the United States, or which introduces or may introduce process wastewater pollutants into a publicly owned treatment works.

§ 429.11 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) The term "hydraulic barking" means a wood processing operation that removes bark from wood by the use of water under a pressure of 6.8 atm (100 psia) or greater.

(b) The terms "cubic feet" or "cubic meters" of production in Subpart A means the cubic feet or cubic meters of logs from which bark is removed.

(c) The term "process wastewater" specifically excludes noncontact cooling water, material storage yard runoff (either raw material or processed wood storage), and boiler blowdown. For the dry process hardboard, veneer, finishing, particleboard, and sawmills and planing mills subcategories, fire control water is excluded from the definition.

(d) The term "gross production of fiberboard products" means the air dry weight of hardboard or insulation board following formation of the mat and prior to trimming and finishing operations.

(e) The term "hardboard" means a panel manufactured from interfelted ligno-cellulosic fibers consolidated under heat and pressure to a density of 0.5 g/cu cm (31 lb/cu ft) or greater.

(f) The term "insulation board" means a panel manufactured from interfelted ligno-cellulosic fibers consolidated to a density of less than 0.5 g/cu cm (less than 31 lb/cu ft).

(g) The term "smooth-one-side (S1S) hardboard" means hardboard which is produced by the wet-matting, wet-pressing process.

(h) The term "smooth-two-sides (S2S) hardboard" means hardboard which is produced by the wet-matting, dry-pressing process.

(i) The term "debris" means woody material such as bark, twigs, branches, heartwood or sapwood that will not pass through a 2.54 cm (1.0 in) diameter round opening and is present in the discharge from a wet storage facility.

(j) For the subcategories for which numerical limitations are given, the daily maximum limitation is a value that should not be exceeded by any one effluent measurement. The 30-day limitation is a value that should not be exceeded by the average of daily measurements taken during any 30-day period.

[46 FR 8285, Jan. 26, 1981, as amended at 46 FR 57287, Nov. 23, 1981]

§ 429.12 Monitoring requirements. [Reserved]

Subpart A—Barking Subcategory

§ 429.20 Applicability; description of the barking subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from the barking of logs by plants in SIC major group 24, and by plants producing insulation board (SIC group 2661).

§ 429.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

(a) The following limitations apply to all mechanical barking installations: There shall be no discharge of process wastewater pollutants into navigable waters.

(b) The following limitations constitute the maximum permissible discharge for hydraulic barking installations:

SUBPART A

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Metric units (kilograms per cubic meter of production)	
BOD5	1.5	0.5
TSS	6.9	2.3
pH	(1)	(1)
	English units (pounds per cubic foot of production)	
BOD5	0.09	0.03
TSS	0.431	0.144
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 429.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 429.24 New source peformance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

(a) The following limitations apply to all mechanical barking installations: There shall be no discharge of process wastewater pollutants into navigable waters.

(b) The following limitations constitute the maximum permissible discharge for hydraulic barking installations:

SUBPART A

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Metric units (kilograms per cubic meter of production)	
BOD5	1.5	0.5

SUBPART A—Continued

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS	6.9	2.3
pH	(1)	(1)
	English units (pounds per cubic foot of production)	
BOD5	0.09	0.03
TSS	0.431	0.144
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 429.25 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.26 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart B—Veneer Subcategory

§ 429.30 Applicability; description of the veneer subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from any plant which manufactures veneer and does not store or hold raw materials in wet storage conditions.

§ 429.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by application of the best practicable control technology currently available (BPT):

(a) The following limitations constitute the maximum permissible discharge for all veneer manufacturing installations other than those referred to in paragraph (b) and (c) of this section: There shall be no discharge of process wastewater pollutants into navigable waters.

(b) The following limitations constitute the maximum permissible discharge for softwood veneer manufacturing processes which use direct steaming for the conditioning of logs:

SUBPART B

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per cubic meter of production)	
BOD5	0.72	0.24
pH	(1)	(1)
	English units (pounds per cubic foot of production)	
BOD5	0.045	0.015
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

(c) The following limitations constitute the maximum permissible discharge for hardwood veneer manufacturing processes which use direct steaming for the conditioning of logs:

SUBPART B

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per cubic meter of production)	
BOD5	1.62	0.54
pH	(1)	(1)
	English units (pounds per cubic foot of production)	
BOD5	0.10	0.034
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 429.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.34 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.35 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.36 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart C—Plywood Subcategory

§ 429.40 Applicability; description of the plywood subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from any plywood producing plant that does not store or hold raw materials in wet storage conditions.

§ 429.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.44 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.45 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.46 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart D—Dry Process Hardboard Subcategory

§ 429.50 Applicability; description of the dry process hardboard subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from any plant that produces hardboard using the dry matting process for forming the board mat.

§ 429.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.54 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.55 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.56 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart E—Wet Process Hardboard Subcategory

§ 429.60 Applicability; description of the wet process hardboard subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from any plant which produces hardboard products using the wet matting process for forming the board mat.

§ 429.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

(a) The following limitations apply to plants which produce smooth-one-side (S1S) hardboard:

SUBPART E (S1S)

Pollutant or pollutant property	BPT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (lb/1000 lb) of gross production	
BOD5	20.5	10.7
TSS	37.3	24.6
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

(b) The following limitations apply to plants which produce smooth-two-sides (S2S) hardboard:

SUBPART E (S2S)

Pollutant or pollutant property	BPT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/(kkg (lb/1000 lb) of gross production	
BOD5	32.9	21.4
TSS	54.2	37.1
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 429.62 [Reserved]

§ 429.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 429.64 New source performance standards (NSPS).

For purpose of this new source performance standard only, "new source" means a source which is constructed at a site at which no other source covered by this part is located. Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

[46 FR 8285, Jan. 26, 1981, as amended at 46 FR 57287, Nov. 23, 1981]

§ 429.65 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.66 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart F—Wood Preserving—Water Borne or Nonpressure Subcategory

§ 429.70 Applicability; description of the wood preserving-water borne or nonpressure subcategory.

This subpart applies to discharges and to the introduction of process wastewater pollutants into publicly owned treatment works from all nonpressure wood preserving treatment processes and all pressure wood preserving treatment processes employing water borne inorganic salts.

§ 429.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of reduction attainable by the application of the best practicable control technology (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.74 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.75 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES): There shall be no introduction of process wastewater pollutants into publicly owned treatment works.

§ 429.76 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no introduction of process wastewater pollutants into publicly owned treatment works.

Subpart G—Wood Preserving Steam Subcategory

§ 429.80 Applicability; description of the wood preserving—steam subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from wood preserving processes that use direct steam impingement on wood as the predominant conditioning method; processes that use the vapor drying process as the predominant conditioning method; direct steam conditioning processes which use the same retort to treat with both salt and oil type preservatives; and steam conditioning processes which apply both salt type and oil type preservatives to the same stock.

§ 429.81 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART G

Pollutant or pollutant property	BPT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	English units (lb/1000 cubic feet of product)	
COD	68.5	34.5
Phenols	.14	.04
Oil and Grease	1.5	.75
pH	(1)	(1)
	Metric units (kg/1000 cu m of product)	
COD	1,100	550
Phenols	2.18	.65
Oil and Grease	24.0	12.0
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

§ 429.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 429.84 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.85 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and meet the following pretreatment standards for existing sources (PSES):

SUBPART G

[PSES Effluent Limitations]

Pollutant or pollutant property	Maximum for any 1 day (mg/l)
Oil and grease	100
Copper	5
Chromium	4
Arsenic	4

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

[Grams per cubic meter of production]

Pollutant or pollutant property	Maximum for any 1 day
Oil and grease	20.5
Copper	.62
Chromium	.41
Arsenic	.41

§ 429.86 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no introduction of process wastewater pollutants into publicly owned treatment works.

Subpart H—Wood Preserving—Boulton Subcategory

§ 429.90 Applicability; description of the wood preserving—Boulton subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into a publicly owned treatment works from wood preserving operations which use the Boulton process as the predominant method of conditioning stock.

§ 429.91 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.94 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.95 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and meet the following pretreatment standards for existing sources (PSES):

SUBPART H

[PSES Effluent Limitations]

Pollutant or pollutant property	Maximum for any 1 day (mg/l)
Oil and grease	100
Copper	5
Chromium	4
Arsenic	4

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

SUBPART H

[PSES Effluent Limitations; grams per cu m of production]

Pollutant or pollutant property	Maximum for any 1 day
Oil and grease	20.5
Copper	.62
Chromium	.41
Arsenic	.41

§ 429.96 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no introduction of process wastewater pollutants into publicly owned treatment works.

Subpart I—Wet Storage Subcategory

§ 429.100 Applicability; description of the wet storage subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from the storage of unprocessed wood, i.e., the storage of logs or roundwood before or after removal of bark in self-contained bodies of water (mill ponds or log ponds) or the storage of logs or roundwood on land during which water is sprayed or deposited intentionally on the logs (wet decking).

§ 429.101 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no debris discharged and the pH shall be within the range of 6.0 to 9.0

429.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no debris discharged and the pH shall be within the range of 6.0 to 9.0.

§ 429.104 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no debris discharged and the pH shall be within the range of 6.0 to 9.0.

§ 429.105 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.106 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart J—Log Washing Subcategory

§ 429.110 Applicability; description of the log washing subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from the log washing process in which water under pressure is applied to logs for the purpose of removing foreign material from the surface of the log before further processing.

§ 429.111 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters containing a total suspended solids concentration greater than 50 mg/l and the pH shall be within the range of 6.0 to 9.0.

§ 429.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.114 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.115 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.116 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart K—Sawmills and Planing Mills Subcategory

§ 429.120 Applicability; description of the sawmills and planing mills subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from the timber products processing procedures that include all or part of the following operations: bark removal (other than hydraulic barking as defined in section 429.11 of this part), sawing, resawing, edging, trimming, planing and machining.

§ 429.121 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.124 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.125 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.126 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart L—Finishing Subcategory

§ 429.130 Applicability; description of the finishing subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from the drying, planing, dipping, staining, end coating, moisture proofing, fabrication, and by-product utilization timber processing operations not otherwise covered by specific guidelines and standards.

§ 429.131 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.132 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.133 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subject must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.134 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.135 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.136 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart M—Particleboard Manufacturing Subcategory

§ 429.140 Applicability; description of the particleboard manufacturing subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from any plant which manufactures particleboard.

§ 429.141 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.142 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.143 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.144 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.145 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.146 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduce process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart N—Insulation Board Subcategory

§ 429.150 Applicability; description of the insulation board subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from plants which produce insulation board using wood as the primary raw material. Specifically excluded from this subpart is the manufacture of insulation board from the primary raw material bagasse.

§ 429.151 Effluent limitations representing the degree of effluent reduction attaintable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART N

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (lb/1000 lb) of gross production	
BOD5	8.13	4.32
TSS	5.69	2.72
pH		[1]

[1] Within the range 6.0 to 9.0 at all times.

Postponed Regulation: Section 429.151 was added at 46 FR 8285, Jan. 26, 1981. The effective date was postponed to March 30, 1981, at 46 FR 11972, Feb. 12, 1981, and postponed until further notice at 46 FR 19936, Apr. 1, 1981. The text of the postponed regulation is set forth above.

In order to determine the effective text at any date after the revision date of this volume (July 1, 1982), the user must consult the daily FEDERAL REGISTER.

§ 429.152 [Reserved]

§ 429.153 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 429.154 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.155 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.156 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into publicly owned treatment works must comply with 40 CFR Part 403.

Subpart O—Wood Furniture and Fixture Production Without Water Wash Spray Booth(s) or Without Laundry Facilities Subcategory

§ 429.160 Applicability; description of the wood furniture and fixture production without water wash spray booth(s) or without laundry facilities subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from the manufacture of wood furniture and fixtures at establishments that (a) do not utilize water wash spray booths to collect and contain the overspray from spray applications of finishing materials and (b) do not maintain on-site laundry facilities for fabric utilized in various finishing operations.

§ 429.161 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology limitations (BPT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.162 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.163 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.164 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

There shall be no discharge of process wastewater pollutants into navigable waters.

§ 429.165 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.166 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

Subpart P—Wood Furniture and Fixture Production With Water Wash Spray Booth(s) or With Laundry Facilities Subcategory

§ 429.170 Applicability; description of the wood furniture and fixture production with water wash spray booth(s) or with laundry facilities subcategory.

This subpart applies to discharges to waters of the United States and to the introduction of process wastewater pollutants into publicly owned treatment works from the manufacture of wood furniture and fixtures at establishments that either (a) utilize water wash spray booth(s) to collect and contain the overspray from spray applications of finishing materials, or (b) utilize on-site laundry facilities for fabric utilized in various finishing operations.

§ 429.171 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT): Settleable solids shall be less than or equal to 0.2 ml/l and pH shall be between 6.0 and 9.0 at all times.

§ 429.172 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 429.173 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants.

§ 429.174 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants.

§ 429.175 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 429.176 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

PART 430—PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

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430.10 Applicability; description of the unbleached kraft subcategory.
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430.20 Applicability; description of the sodium based neutral sulfite semi-chemical subcategory.
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Subpart C—Ammonia Base Neutral Sulfite Semi-Chemical Subcategory

430.30 Applicability; description of the ammonia base neutral sulfite semi-chemical subcategory.
430.31 Specialized definitions.

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430.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
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Subpart D—Unbleached Kraft—Neutral Sulfite Semi-Chemical (Cross Recovery) Subcategory

430.40 Applicability; description of the unbleached kraft—neutral sulfite semichemical (cross recovery) subcategory.
430.41 Specialized definitions.
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430.50 Applicability; description of the paperboard from waste paper subcategory.
430.51 Specialized definitions.
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Subpart F—Dissolving Kraft Subcategory

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430.60 Applicability; description of the dissolving kraft subcategory.
430.61 Specialized definitions.
430.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

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430.70 Applicability; description of the market bleached kraft subcategory.
430.71 Specialized definitions.
430.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart H—BCT Bleached Kraft Subcategory

430.80 Applicability; description of the BCT bleached kraft subcategory.
430.81 Specialized definitions.
430.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart I—Fine Bleached Kraft Subcategory

430.90 Applicability; description of the fine bleached kraft subcategory.
430.91 Specialized definitions.
430.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart J—Papergrade Sulfite (Blow Pit Wash) Subcategory

430.100 Applicability; description of the papergrade sulfite (blow pit wash) subcategory.
430.101 Specialized definitions.
430.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart K—Dissolving Sulfite Pulp Subcategory

430.110 Applicability; description of the dissolving sulfite pulp subcategory.
430.111 Specialized definitions.

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430.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart L—Groundwood-Chemi-Mechanical Subcategory

430.120 Applicability; description of the groundwood - chemi - mechanical subcategory.
430.121 Specialized definitions.
430.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart M—Groundwood-Thermo-Mechanical Subcategory

430.130 Applicability; description of the groundwood-thermo-mechanical subcategory.
430.131 Specialized definitions.
430.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart N—Groundwood-CMN Papers Subcategory

430.140 Applicability; description of the groundwood-CMN papers subcategory.
430.141 Specialized definitions.
430.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart O—Groundwood-Fine Papers Subcategory

430.150 Applicability; description of the groundwood-fine papers subcategory.
430.151 Specialized definitions.
430.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart P—Soda Subcategory

430.160 Applicability; description of the soda subcategory.
430.161 Specialized definitions.
430.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

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Sec.
430.170 Applicability; description of the deink subcategory.
430.171 Specialized definitions.
430.172 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart R—NI Fine Papers Subcategory

430.180 Applicability; description of the NI fine papers subcategory.
430.181 Specialized definitions.
430.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart S—NI Tissue Papers Subcategory

430.190 Applicability; description of the NI tissue papers subcategory.
430.191 Specialized definitions.
430.192 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart T—NI Tissue (FWP) Subcategory

430.200 Applicability; description of the NI tissue (FWP) subcategory.
430.201 Specialized definitions.
430.202 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart U—Papergrade Sulfite (Drum Wash) Subcategory

430.210 Applicability; description of the papergrade sulfite (drum wash) subcategory.
430.211 Specialized definitions.
430.212 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart V—Papergrade Sulfite Market Pulp Subcategory

430.220 Applicability; description of the papergrade sulfite market pulp subcategory.
430.221 Specialized definitions.

Sec.
430.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), and 1317(c)) 86 Stat 816 et seq.; Pub. L. 92-500.

Subpart A—Unbleached Kraft Subcategory

SOURCE: 39 FR 18747, May 29, 1974, unless otherwise noted.

§ 430.10 Applicability; description of the unbleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by unbleached kraft mills. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

§ 430.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Color shall mean that color as measured by the testing method presented in the National Council for Air and Stream Improvement, (Inc.) "Technical Bulletin 253," December 1971. Color units are to be assumed equal to mg/l.

(c) Total suspended nonfilterable solids (TSS) shall mean TSS as measured by the technique utilizing glass fiber disks as specified in "Standard Methods for the Examination of Water and Wastewater" (13th Edition).

(d) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	15.6	2.8
TSS	12.0	6.0
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	11.2	5.6
TSS	24.0	12.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	2.7	1.35
TSS	3.7	1.85
Color	15.0	10.0
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	5.4	2.7
TSS	7.4	3.7
Color	30.0	20.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.14 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the unbleached kraft subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR Parts 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.

[40 FR 6445, Feb. 11, 1975]

§ 430.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	3.1	1.55
TSS	7.5	3.75
Color	15.0	10.0
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	6.2	3.1
TSS	15.0	7.5

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Color	30.0	20.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the unbleached kraft subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 430.15; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart B—Sodium Based Neutral Sulfite Semi-Chemical Subcategory

SOURCE: 39 FR 18747, May 29, 1974, unless otherwise noted.

§ 430.20 Applicability; description of the sodium based neutral sulfite semichemical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by sodium base neutral sulfite semichemical mills. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

§ 430.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Color shall mean that color as measured by the testing method presented in the National Council for Air and Stream Improvement, (Inc.) "Technical Bulletin 253," December 1971. Color units are to be assumed equal to mg/l.

(c) Total suspended nonfilterable solids (TSS) shall mean TSS as measured by the technique utilizing glass fiber disks as specified in "Standard Methods for the Examination of Water and Wastewater" (13th Edition).

(d) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	8.7	4.35
TSS	11.0	5.5
pH	(¹)	(¹)
	English units (pounds per ton of product)	
BOD5	17.4	8.7
TSS	22.0	11.0
pH	(¹)	(¹)

[1] Within the range 6.0 to 9.0.

§ 430.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	4.5	2.25
TSS	5.0	2.5
Color	(¹)	(¹)
pH	(²)	(²)
	English units (pounds per ton of product)	
BOD5	9.0	4.5
TSS	10.0	5.0
Color	(¹)	(¹)
pH	(²)	(²)

[1] 75 percent removal.
[2] Within the range 6.0 to 9.0.

§ 430.24 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the sodium based neutral sulfite semi-chemical subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.

[40 FR 6446, Feb. 11, 1975]

§ 430.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	5.2	2.6
TSS	7.7	3.85
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	10.4	5.2
TSS	15.4	7.7
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the sodium based neutral sulfite semi-chemical subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 430.25: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart C—Ammonia Base Neutral Sulfite Semi-Chemical Subcategory

SOURCE: 39 FR 18747, May 29, 1974, unless otherwise noted.

§ 430.30 Applicability; description of the ammonia base neutral sulfite semi-chemical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by ammonia base neutral sulfite semi-chemical mills. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

§ 430.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Color shall mean that color as measured by the testing method presented in the National Council for Air and Stream Improvement, (Inc.) "Technical Bulletin 253," December 1971. Color units are to be assumed equal to mg/l.

(c) Total suspended nonfilterable solids (TSS) shall mean TSS as measured by the technique utilizing glass fiber disks as specified in "Standard Methods for the Examination of Water and Wastewater" (13th Edition).

(d) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitation have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue (NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	8.0	4.0
TSS	10.0	5.0
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	16.0	8.0
TSS	20.0	10.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of the pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	6.4	3.2
TSS	5.2	2.6
Color	(1)	(1)
pH	(2)	(2)
	English units (pounds per ton of product)	
BOD5	12.8	6.4
TSS	10.4	5.2
Color	(1)	(1)
pH	(2)	(2)

[1] 75 percent removal.
[2] Within the range 6.0 to 9.0.

§ 430.34 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the ammonia base neutral sulfite semi-chemical subcategory which is a user of a publicly owned treatment works and a major contribuiting industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.

[40 FR 6446, Feb. 11, 1975]

§ 430.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	7.5	3.75
TSS	7.5	3.75
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	15.0	7.5
TSS	15.0	7.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the ammonia base neutral sulfite semi-chemical subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 430.35: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart D—Unbleached Kraft—Neutral Sulfite Semi-Chemical (Cross Recovery) Subcategory

SOURCE: 39 FR 18747, May 29, 1974, unless otherwise noted.

§ 430.40 Applicability; description of the unbleached kraft—neutral sulfite semichemical (cross recovery) subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by combined unbleached kraft and neutral sulfite semi-chemical (NSSC) mills, wherein the spent NSSC cooking liquor is burned within the unbleached kraft chemical recovery system. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

§ 430.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Color shall mean that color as measured by the testing method presented in the National Council for Air and Stream Improvement, (Inc.) "Technical Bulletin 253," December 1971. Color units are to be assumed equal to mg/l.

(c) Total suspended nonfilterable solids (TSS) shall mean TSS as measured by the technique utilizing glass fiber disks as specified in "Standard Methods for the Examination of Water and Wastewater" (13th Edition).

(d) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	8.0	4.0
TSS	12.5	6.25
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	16.0	8.0
TSS	25.0	12.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	3.2	1.6
TSS	4.2	2.1
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	6.4	3.2
TSS	8.4	4.2
Color	37.5	25.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.44 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the unbleached kraft-neutral sulfite semi-chemical (cross recovery) subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of the pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
pH	Do.

[40 FR 6446, Feb. 11, 1975]

§ 430.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	3.8	1.9
TSS	8.0	4.0
Color	25.0	12.5
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD5	7.6	3.8
TSS	16.0	8.0
Color	37.5	25.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the unbleached kraft—neutral sulfite semi-chemical (cross recovery) subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 430.45: *Provided,* That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards provid-

ing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart E—Paperboard From Waste Paper Subcategory

SOURCE: 39 FR 18747, May 29, 1974, unless otherwise noted.

§ 430.50 Applicability; description of the paperboard from waste paper subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of paperboard from waste paper. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

§ 430.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Total suspended nonfilterable solids (TSS) shall mean TSS as measured by the technique utilizing glass fiber disks as specified in "Standard Methods for the Examination of Water and Wastewater" (13th Edition).

(c) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	3.0	1.5
TSS	5.0	2.5
pH	(1)	(1)

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (pounds per ton of product)	
BOD*5*	6.0	3.0
TSS	10.0	5.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology ecnomically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD*5*	1.3	0.65
TSS	1.6	.8
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD*5*	2.6	1.3
TSS	3.2	1.6
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.54 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the paperboard from waste paper subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD*5*	Do.
TSS	Do.

[40 FR 6446, Feb. 11, 1975]

§ 430.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD*5*	1.5	0.75
TSS	4.0	2.0
pH	(1)	(1)
	English units (pounds per ton of product)	
BOD*5*	3.0	1.5
TSS	8.0	4.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 430.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the paperboard from waste paper subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

> In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 430.55; *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart F—Dissolving Kraft Subcategory

SOURCE: 42 FR 1399, Jan. 6, 1977, unless otherwise noted.

§ 430.60 Applicability; description of the dissolving kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of dissolving pulp by kraft mills.

§ 430.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production in air-dry-tons (10% moisture) divided by the number of operating days during that year. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	23.6	12.25	6.9
TSS	37.3	20.05	11.05
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	47.2	24.5	13.8
TSS	74.6	40.1	22.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	3.2	1.7	0.95
TSS	6.9	3.75	2.0
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	6.4	3.4	1.9
TSS	13.8	7.5	4.0
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.36	0.2	0.1
TSS	0.7	0.4	0.2
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.7	0.4	0.2
TSS	1.4	0.8	0.4
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.6	0.35	0.2
TSS	1.45	0.8	0.4
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	1.2	0.7	0.4
TSS	2.9	1.6	0.8
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart G—Market Bleached Kraft Subcategory

SOURCE: 42 FR 1401, Jan. 6, 1977, unless otherwise noted.

§ 430.70 Applicability; description of the market bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of market pulp by bleached kraft mills.

§ 430.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production in air-dry-tons (10 percent moisture) divided by the number of operating days during that year. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for noncontinuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	15.45	8.05	4.5
TSS	30.4	16.4	9.0
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	30.9	16.1	9.0
TSS	60.8	32.8	18.0
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	2.3	1.2	0.7
TSS	5.3	2.85	1.55
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	4.6	2.4	1.4
TSS	10.6	5.7	3.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.2	0.1	0.1
TSS	0.6	0.3	0.15
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.4	0.2	0.2
TSS	1.2	0.6	0.3
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.4	0.2	0.15
TSS	1.15	0.6	0.35
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.8	0.4	0.3
TSS	2.3	1.2	0.7
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart H—BCT Bleached Kraft Subcategory

SOURCE: 42 FR 1402, Jan. 6, 1977, unless otherwise noted.

§ 430.80 Applicability; description of the BCT bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of paperboard, coarse paper, and tissue paper by bleached kraft mills.

§ 430.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10 percent moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations, established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	13.65	7.1	4.0
TSS	24.0	12.9	7.1
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	27.3	14.2	8.0
TSS	48.0	25.8	14.2
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	2.25	1.2	0.65
TSS	5.75	3.1	1.7
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	4.5	2.4	1.3
TSS	11.5	6.2	3.4
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.25	0.15	0.05
TSS	0.65	0.35	0.2
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.5	0.3	1.0
TSS	1.3	0.7	0.4
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.45	0.25	0.1
TSS	1.25	0.7	0.35
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.9	0.5	0.2

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
TSS	2.5	1.4	0.7
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart I—Fine Bleached Kraft Subcategory

SOURCE: 42 FR 1403, Jan. 6, 1977, unless otherwise noted.

§ 430.90 Applicability; description of the fine bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and fine papers by bleached kraft mills.

§ 430.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	10.6	5.5	3.1
TSS	22.15	11.9	6.55
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	21.2	11.0	6.1
TSS	44.3	23.8	13.2
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	1.95	1.0	0.55
TSS	5.3	2.85	1.55
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	3.9	2.0	1.1
TSS	10.6	5.7	3.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.2	0.1	0.05
TSS	0.55	0.3	0.15
pH		(1)	(1)

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	English units (pounds per ton of product)		
BOD5	0.4	0.2	0.1
TSS	1.1	0.6	0.3
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.35	0.2	0.1
TSS	1.15	0.6	0.3
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.7	0.4	0.2
TSS	2.3	1.2	0.6
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart J—Papergrade Sulfite (Blow Pit Wash) Subcategory

SOURCE: 42 FR 1404, Jan. 6, 1977, unless otherwise noted.

§ 430.100 Applicability; description of the papergrade sulfite (blow pit wash) subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper by papergrade sulfite mills, which use blow pit pulp washing techniques.

§ 430.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10 percent moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharged unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for noncontinuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations for noncontinuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

(e) Sulfite cooking liquor shall be defined as bisulfite cooking liquor when the pH of the liquor is between 3.0 and 6.0 and as acid sulfite cooking liquor when the pH is less than 3.0.

§ 430.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	31.8	16.55	9.3
TSS	43.95	23.65	13.0
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	63.6	33.1	18.6
TSS	87.9	47.3	26.0
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	2.7	1.45	0.8
TSS	7.5	3.95	2.2
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	5.4	2.9	1.6
TSS	15.0	7.9	4.4
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.15	0.1	0.05
TSS	2.55	1.35	0.75
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.3	0.2	0.1
TSS	5.1	2.7	1.5
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.35	0.2	0.1
TSS	1.7	0.9	0.5
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.7	0.4	0.2
TSS	3.4	1.8	1.0
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(e) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of bisulfite cooking liquor and barometric condensers, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	2.9	1.5	0.85
TSS	8.25	4.45	2.45
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	5.8	3.0	1.7
TSS	16.5	8.9	4.9

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(f) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of acid sulfite cooking liquor and surface condensers, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production subject to such operations.

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.5	0.25	0.15
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	1.0	0.5	0.3
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(g) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of acid sulfite cooking liquor and barometric condensers, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production subject to such operations.

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	3.75	1.95	1.1
TSS	8.25	4.45	2.45
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	7.5	3.9	2.2
TSS	16.5	8.9	4.9
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart K—Dissolving Sulfite Pulp Subcategory

SOURCE: 42 FR 1406, Jan. 6, 1977, unless otherwise noted.

§ 430.110 Applicability; description of the dissolving sulfite pulp subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp by dissolving sulfite mills.

§ 430.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production in air-dry-tons (10 percent moisture) divided by the number of operating days during that year. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operatings shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for noncontinuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for noncontinuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	41.4	21.5	12.1
TSS	70.65	38.05	41.8
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	82.8	43.1	24.2
TSS	141.3	76.1	41.8
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.7	0.35	0.2
TSS	0.15	0.1	0.05
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	1.4	0.7	0.4
TSS	0.3	0.2	0.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.15	0.1	0.05
TSS	0.15	0.1	0.05
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.3	0.2	0.1
TSS	0.3	0.2	0.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.15	0.1	0.05
TSS	0.15	0.1	0.05
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.3	0.2	0.1
TSS	0.3	0.2	0.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(e) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the production of viscose grade dissolving sulfite pulp, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production which includes this grade.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	2.9	1.5	0.85
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	5.8	3.0	1.7
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(f) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the production of cellophane grade dissolving sulfite pulp, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production which includes this grade.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	6.65	3.45	1.95
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	13.3	6.9	3.9
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(g) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the production of acetate grade dissolving sulfite pulp, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production which includes this grade.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	9.4	4.9	2.75
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	18.8	9.8	5.5
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart L—Groundwood-Chemi-Mechanical Subcategory

SOURCE: 42 FR 1407, Jan. 6, 1977, unless otherwise noted.

§ 430.120 Applicability; description of the groundwood-chemi-mechanical subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper by groundwood-chemi-mechanical mills.

§ 430.121 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dicated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	13.5	7.05	3.95
TSS	19.75	10.65	5.85
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	27.0	14.1	7.9
TSS	39.5	21.3	11.7
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.9	0.45	0.25
TSS	2.6	1.45	0.8
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	1.8	0.9	0.5
TSS	5.2	2.9	1.6
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.05	0.05	0.05
TSS	0.25	0.15	0.1
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.1	0.1	0.1
TSS	0.5	0.3	0.2
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.15	0.05	0.05
TSS	0.55	0.3	0.15
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.3	0.1	0.1

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
TSS	1.1	0.6	.03
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(e) [Reserved]

(f) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section:

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
Zinc	0.34	0.17	0.115
	English units (pounds per ton of product)		
Zinc	0.68	0.34	0.23

Subpart M—Groundwood-Thermo-Mechanical Subcategory

SOURCE: 42 FR 1409, Jan. 6, 1977, unless otherwise noted.

§ 430.130 Applicability; description of the groundwood-thermo-mechanical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by groundwood thermo-mechanical mills.

§ 430.131 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	10.6	5.55	3.1
TSS	15.55	8.35	4.6
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	21.2	11.1	6.2
TSS	31.1	16.7	9.2
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.9	0.45	0.3
TSS	2.7	1.45	0.75
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	1.8	0.9	0.6
TSS	5.4	2.9	1.5
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.05	0.05	0.05
TSS	0.3	0.15	0.05
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.1	0.1	0.1
TSS	0.6	0.3	0.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.15	0.1	0.05
TSS	0.6	0.35	0.15
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.3	0.2	0.1
TSS	1.2	0.7	0.3
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(e) [Reserved]

(f) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section:

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
Zinc	0.26	0.13	0.085
	English units (pounds per ton of product)		
Zinc	0.52	0.26	0.17

Subpart N—Groundwood-CMN Papers Subcategory

SOURCE: 42 FR 1410, Jan. 6, 1977, unless otherwise noted.

§ 430.140 Applicability; description of the groundwood-CMN papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and coarse paper, molded pulp products, and newspaper by groundwood mills.

§ 430.141 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	7.45	3.9	2.2
TSS	12.75	6.85	3.75
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	14.9	7.8	4.4
TSS	25.5	13.7	7.5
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	1.15	0.55	0.3
TSS	2.0	1.1	0.6
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	2.3	1.1	0.6
TSS	4.0	2.2	1.2
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.15	0.05	0.05
TSS	0.2	0.15	0.1
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.3	0.1	0.1
TSS	0.4	0.3	0.2
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.25	0.1	0.05
TSS	0.45	0.25	0.15
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.5	0.2	0.1
TSS	0.9	0.5	0.3
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(e) [Reserved]

(f) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section:

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
Zinc	0.30	0.15	0.10
	English units (pounds per ton of product)		
Zinc	0.60	0.30	0.20

Subpart O—Groundwood-Fine Papers Subcategory

SOURCE: 42 FR 1411, Jan. 6, 1977, unless otherwise noted.

§ 430.150 Applicability; description of the groundwood-fine papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and fine paper by groundwood mills.

§ 430.151 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	6.85	3.6	2.0
TSS	11.75	6.3	3.45
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	13.7	7.2	4.0
TSS	23.5	12.6	6.9
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55	0.35
TSS	1.95	1.1	0.6

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
pH		(¹)	(¹)
	English units (pounds per ton of product)		
BOD*5*	2.2	1.1	0.7
TSS	3.9	2.2	1.2
pH		(¹)	(¹)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD*5*	0.15	0.05	0.05
TSS	0.2	0.15	0.1
pH		(¹)	(¹)
	English units (pounds per ton of product)		
BOD*5*	0.3	0.1	0.1
TSS	0.4	0.3	0.2
pH		(¹)	(¹)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD*5*	0.2	0.05	0.05
TSS	0.4	0.25	0.15
pH		(¹)	(¹)
	English units (pounds per ton of product)		
BOD*5*	0.4	0.1	0.1
TSS	0.8	0.5	0.3
pH		(¹)	(¹)

[1] Within the range 5.0 to 9.0.

(e) [Reserved]

(f) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section:

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
Zinc	0.275	0.135	0.09
	English units (pounds per ton of product)		
Zinc	0.55	0.27	0.18

Subpart P—Soda Subcategory

SOURCE: 42 FR 1412, Jan. 6, 1977, unless otherwise noted.

§ 430.160 Applicability; description of the soda subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper by soda mills.

§ 430.161 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10 percent moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	13.7	7.1	4.0
TSS	24.5	13.2	7.25
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	27.4	14.2	8.0
TSS	49.0	26.4	14.5
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	2.05	1.1	0.6
TSS	5.25	2.8	1.55
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	4.1	2.2	1.2
TSS	10.5	5.6	3.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.15	0.1	0.05
TSS	0.5	0.25	0.15
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.3	0.2	0.1
TSS	1.0	0.5	0.3
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.3	0.2	0.1
TSS	1.1	0.55	0.35
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.6	0.4	0.2
TSS	2.2	1.1	0.7
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart Q—Deink Subcategory

SOURCE: 42 FR 1413, Jan. 6, 1977, unless otherwise noted.

§ 430.170 Applicability; description of the deink subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper by deink mills.

§ 430.171 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive days effluent limitations set forth in this subpart.

§ 430.172 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	18.1	9.4	5.3
TSS	24.05	12.95	7.1
pH		(1)	(1)

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	English units (pounds per ton of product)		
BOD5	36.2	18.8	10.6
TSS	48.1	25.9	14.2
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart R—NI Fine Papers Subcategory

SOURCE: 42 FR 1414, Jan. 6, 1977, unless otherwise noted.

§ 430.180 Applicability; description of the NI fine papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of fine paper by nonintegrated mills.

§ 430.181 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	8.2	4.25	2.4
TSS	11.0	5.9	3.25
pH		([1])	([1])
	English units (pounds per ton of product)		
BOD5	16.4	8.5	4.8
TSS	22.0	11.8	6.5
pH		([1])	([1])

[1] Within the range 5.0 to 9.0.

Subpart S—NI Tissue Papers Subcategory

Source: 42 FR 1415, Jan. 6, 1977, unless otherwise noted.

§ 430.190 Applicability; description of the NI tissue papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue papers by non-integrated mills.

§ 430.191 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.192 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	11.4	6.25	3.5
TSS	10.25	5.0	2.85
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	22.8	12.5	7.0
TSS	20.5	10.0	5.7
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart T—NI Tissue (FWP) Subcategory

SOURCE: 42 FR 1415, Jan. 6, 1977, unless otherwise noted.

§ 430.200 Applicability; description of the NI tissue (FWP) subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue paper from waste paper by non-integrated mills.

§ 430.201 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be in terms of off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

§ 430.202 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	13.7	7.1	4.0
TSS	17.05	9.2	5.05
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	27.4	14.2	8.0
TSS	34.1	18.4	10.1
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart U—Papergrade Sulfite (Drum Wash) Subcategory

Source: 42 FR 1416, Jan. 6, 1977, unless otherwise noted.

§ 430.210 Applicability; description of the papergrade sulfite (drum wash) subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper by papergrade sulfite mills, using vacuum or pressure drums in their pulp washing operations.

§ 430.211 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper production shall be measured in the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(d) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect waste water treatment levels that are representative of application of best practicable control technology currently available in lieu of the maximum day and average of 30 consecutive day effluent limitations set forth in this subpart.

(e) Sulfite cooking liquor shall be defined as bisulfite cooking liquor when the pH of the liquor is between 3.0 and 6.0 and as acid sulfite cooking liquor when the pH is less than 3.0.

§ 430.212 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available, except that all point sources other than non-continuous dischargers shall not be subject to the annual average limitations, and that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	26.7	13.9	7.8
TSS	43.95	23.65	13.0
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	53.4	27.8	15.6
TSS	87.9	47.3	26.0
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	3.05	1.6	0.9
TSS	7.5	3.95	2.2
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	6.1	3.2	1.8
TSS	15.0	7.9	4.4
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.35	0.2	0.1
TSS	2.55	1.35	0.75
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	0.7	0.4	0.2
TSS	5.1	2.7	1.5
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
	Metric units (kilograms per 1,000 kg of product)		
BOD5	0.7	0.35	0.2
TSS	1.7	0.9	0.5
pH		(1)	(1)
	English units (pounds per ton of product)		
BOD5	1.4	0.7	0.4
TSS	3.4	1.8	1.0
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(e) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of bisulfite cooking liquor and barometric condensers (not including those mills using continuous digesters), which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
Metric units (kilograms per 1,000 kg of product)			
BOD5	2.7	1.4	0.8
TSS	8.25	4.45	2.45
pH		(1)	(1)
English units (pounds per ton of product)			
BOD5	5.4	2.8	1.6
TSS	16.5	8.9	4.9
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(f) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of acid sulfite cooking liquor and surface condensers (not including those mills using continuous digesters), which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
Metric units (kilograms per 1,000 kg of product)			
BOD5	3.05	1.6	0.9
pH		(1)	(1)
English units (pounds per ton of product)			
BOD5	6.1	3.2	1.8
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(g) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of acid sulfite cooking liquor and barometric condensers (not including those mills using continuous digesters), which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
Metric units (kilograms per 1,000 kg of product)			
BOD5	5.8	3.0	1.7
TSS	8.25	4.45	2.45
pH		(1)	(1)
English units (pounds per ton of product)			
BOD5	11.6	6.0	3.4
TSS	16.5	8.9	4.9
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

(h) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of continuous digesters, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production subject to such operations.

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
Metric units (kilograms per 1,000 kg of product)			
BOD5	11.45	5.95	3.35
TSS	9.8	5.3	2.9
pH		(1)	(1)
English units (pounds per ton of product)			
BOD5	22.9	11.9	6.7

Effluent characteristic	Effluent limitations		
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed	Annual average of daily values for 1 year shall not exceed—
TSS	19.6	10.6	5.8
pH		(1)	(1)

[1] Within the range 5.0 to 9.0.

Subpart V—Papergrade Sulfite Market Pulp Subcategory

§ 430.220 Applicability; description of the papergrade sulfite market pulp subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp by papergrade sulfite market mills.

[41 FR 7673, Feb. 19, 1976]

§ 430.221 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean:

(1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	40.0	20.85
TSS	49.5	26.65
pH	(1)	(1)

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (pounds per ton of product)	
BOD5	80.0	41.7
TSS	99.0	53.3
pH	(1)	(1)

[1] Within the range 5.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that proporation of the total mills production due to the use of logs and wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	1.1	0.55
TSS	1.55	.85
	English units (pounds per ton of product)	
BOD5	2.2	1.1
TSS	3.1	1.7

[1] Within the range 6.0 to 9.0.

[41 FR 7673, Feb. 19, 1976; 41 FR 27733, July 6, 1976]

PART 431—BUILDERS PAPER AND ROOFING FELT SEGMENT OF THE BUILDERS PAPER AND BOARD MILLS POINT SOURCE CATEGORY

Subpart A—Builders Paper and Roofing Felt Subcategory

Sec.

431.10 Applicability; description of the builders paper and roofing felt subcategory.
431.11 Specialized definitions.
431.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
431.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
431.14 Pretreatment standards for existing sources.
431.15 Standards of performance for new sources.
431.16 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304(b), 304(c), 306(b), 306(c) and 307(c) Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314(b), 1314(c), 1316(b), 1316(c), 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

SOURCE: 39 FR 16580, May 9, 1974, unless otherwise noted.

Subpart A—Builders Paper and Roofing Felt Subcategory

§ 431.10 Applicability; description of the builders paper and roofing felt subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of saturating paper, flooring paper, deadening paper, and all other papers known as building papers or roofing felts.

§ 431.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "settleable solids" shall mean the amount of settleable matter present in a sample as determined by the test as described in "Standard Methods for the Examination of Water and Waste Water," 13th Edition.

§ 431.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	5.0	3.0
TSS	5.0	3.0
Settleable solids	(1)	(1)
pH	(2)	(2)
	English units (pounds per ton of product)	
BOD5	10.0	6.0
TSS	10.0	6.0
Settleable solids	(3)	(3)
pH	(3)	(3)

[1] Not to exceed 0.2 ml/l.
[2] Within the range 6.0 to 9.0.
[3] No comparable English units.

§ 431.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	1.75	1.0
TSS	1.75	1.0
Settleable solids	(1)	(1)
pH	(2)	(2)
	English units (pounds per ton of product)	
BOD5	3.5	2.0
TSS	3.5	2.0
Settleable solids	(3)	(3)
pH	(3)	(3)

[1] Not to exceed 0.2 ml/l.
[2] Within the range 6.0 to 9.0.
[3] No comparable English units.

§ 431.14 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the builders paper and roofing felt subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.
Settleable solids	Do.

[40 FR 6446, Feb. 11, 1975]

§ 431.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	1.75	1.0
TSS	1.75	1.0
Settleable solids	(1).	(1)
pH	(2)	(2)
	English units (pounds per ton of product)	
BOD5	3.5	2.0
TSS	3.5	2.0
Settleable solids	(3)	(3)
pH	(2)	(2)

[1] Not to exceed 0.2 ml/l.
[2] Within the range 6.0 to 9.0.
[3] No comparable English units.

§ 431.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the builders paper and roofing felt subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter, shall be amended to read as follows:

In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 431.15; *Provided* That, if the publicly owned treatment works which receives the pollutants is committed in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

PART 432—MEAT PRODUCTS POINT SOURCE CATEGORY

Subpart A—Simple Slaughterhouse Subcategory

Sec.
432.10 Applicability; description of the simple slaughterhouse subcategory.
432.11 Specialized definitions.

Sec.
432.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.13 [Reserved]
432.14 Pretreatment standards for existing sources.
432.15 Standards of performance for new sources.
432.16 Pretreatment standards for new sources.
432.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart B—Complex Slaughterhouse Subcategory

432.20 Applicability; description of the complex slaughterhouse subcategory.
432.21 Specialized definitions.
432.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.23 [Reserved]
432.24 Pretreatment standards for existing sources.
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432.26 Pretreatment standard for new sources.
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Subpart C—Low-Processing Packinghouse Subcategory

432.30 Applicability; description of the low-processing packinghouse subcategory.
432.31 Specialized definitions.
432.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.33 [Reserved]
432.34 Pretreatment standards for existing sources.
432.35 Standards of performance for new sources.
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Sec.
432.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart D—High-Processing Packinghouse Subcategory

432.40 Applicability; description of the high-processing packinghouse subcategory.
432.41 Specialized definitions.
432.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.43 [Reserved]
432.44 Pretreatment standards for existing sources.
432.45 Standards of performance for new sources.
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Subpart E—Small Processor Subcategory

432.50 Applicability; description of the small processor subcategory.
432.51 Specialized definitions.
432.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.53—432.54 [Reserved]
432.55 Standards of performance for new sources.
432.56 Pretreatment standards for new sources.

Subpart F—Meat Cutter Subcategory

432.60 Applicability; description of the meat cutter subcategory.
432.61 Specialized definitions.
432.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
432.64 [Reserved]
432.65 Standards of performance for new sources.

Sec.
432.66 Pretreatment standards for new sources.
432.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart G—Sausage and Luncheon Meats Processor Subcategory

432.70 Applicability; description of the sausage and luncheon meat processor subcategory.
432.71 Specialized definitions.
432.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
432.74 [Reserved]
432.75 Standards of performance for new sources.
432.76 Pretreatment standards for new sources.
432.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart H—Ham Processor Subcategory

432.80 Applicability; description of the ham processor subcategory.
432.81 Specialized definitions.
432.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
432.84 [Reserved]
432.85 Standards of performance for new sources.
432.86 Pretreatment standards for new sources.
432.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart I—Canned Meats Processor Subcategory

Sec.
432.90 Applicability; description of the canned meats processor subcategory.
432.91 Specialized definitions.
432.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
432.94 [Reserved]
432.95 Standards of performance for new sources.
432.96 Pretreatment standards for new sources.
432.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart J—Renderer Subcategory

432.100 Applicability; description of the renderer subcategory.
432.101 Specialized definitions.
432.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
432.104 [Reserved]
432.105 Standards of performance for new sources.
432.106 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c), 307(c), Federal Water Pollution Control Act, as amended; 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

SOURCE: 39 FR 7897, Feb. 28, 1974, unless otherwise noted.

Subpart A—Simple Slaughterhouse Subcategory

§ 432.10 Applicability; description of the simple slaughterhouse subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of red meat carcasses, in whole or part, by simple slaughterhouses.

§ 432.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "slaughterhouse" shall mean a plant that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or smaller meat cuts.

(c) The term "simple slaughterhouse" shall mean a slaughterhouse which accomplishes very limited by-product processing, if any, usually no more than two of such operations as rendering, paunch and viscera handling, blood processing, hide processing, or hair processing.

(d) The term "LWK" (live weight killed) shall mean the total weight of the total number of animals slaughtered during the time to which the effluent limitations apply; i.e., during any one day or any period of thirty consecutive days.

(e) The term "ELWK" (equivalent live weight killed) shall mean the total weight of the total number of animals slaughtered at locations other than the slaughterhouse or packinghouse, which animals provide hides, blood, viscera or renderable materials for processing at that slaughterhouse, in addition to those derived from animals slaughtered on site.

(f) The term "oil and grease" shall mean those components of process waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, EPA, Analytical Quality Control Laboratory, page 217.

§ 432.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
BOD5	0.24	0.12
TSS	0.40	0.20
Oil and grease	0.12	0.06
Fecal coliform	(1)	(1)
pH	(2)	(2)
	English units (pounds per 1,000 lb LWK)	
BOD5	0.24	0.12
TSS	0.40	0.20
Oil and grease	0.12	0.06
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time 400 mpn/100 ml.

[2] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by § 432.12(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by § 432.12(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by § 432.12(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.06	0.03
TSS	0.12	0.06
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.06	0.03
TSS	0.12	0.06

(e) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by § 432.12(a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.02	0.01
TSS	0.04	0.02
pH	(1)	(1)
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.02	0.01
TSS	0.04	0.02
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 432.13 [Reserved]

§ 432.14 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the simple slaughterhouse subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.
Oil and grease	Do.
Fecal coliform	Do.

[40 FR 6446, Feb. 11, 1975]

§ 432.15 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site which may be discharged by a new source subject to the provisions of this subpart: the limitations shall be as specified in § 432.12(a), with the exception that in addition to the pollutants or pollutant properties controlled by that subsection, discharges of ammonia shall not exceed the limitations set forth below:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
Ammonia	0.34	0.17
	English units (pounds per 1,000 lb LWK)	
Ammonia	0.34	0.17

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by §§ 432.15(a) and 432.12(c):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.06	0.03

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.06	0.03

(c) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than slaughterhouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by §§ 432.15(a) and 432.12(d):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.10	0.05
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.10	0.05

(d) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the slaughterhouse which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by §§ 432.15(a) and 432.12(e):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.04	0.02
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.04	0.02

[39 FR 7897, Feb. 28, 1974; 39 FR 26423, July 19, 1974]

§ 432.16 Pretreatment standards for new sources.

The pretreatment standards for incompatible pollutants under section 307(c) of the act for a source within the simple slaughterhouse subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the act if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except for § 128.133. Subject to the provisions of 40 CFR Part 128, process waste waters from a new source subject to the provisions of this subpart may be introduced into a publicly owned treatment works.

§ 432.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/ 100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50748, Aug. 29, 1979; 45 FR 37199, June 2, 1980]

Subpart B—Complex Slaughterhouse Subcategory

§ 432.20 Applicability; description of the complex slaughterhouse subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of red meat carcasses, in whole or part, by complex slaughterhouses.

§ 432.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "slaughterhouse" shall mean a plant that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or smaller meat cuts.

(c) The term "complex slaughterhouse" shall mean a slaughterhouse that accomplishes extensive by-product processing, usually at least three of such operations as rendering, paunch and viscera handling, blood processing, hide processing, or hair processing.

(d) The term "LWK" (live weight killed) shall mean the total weight of the total number of animals slaughtered during the time to which the effluent limitations apply; i.e., during any one day or any period of thirty consecutive days.

(e) The term "ELWK" (equivalent live weight killed) shall mean the total weight of the total number of animals slaughtered at locations other than the slaughterhouse or packinghouse, which animals provide hides, blood, viscera or renderable materials for processing at that slaughterhouse, in addition to those derived from animals slaughtered on site.

(f) The term "oil and grease" shall mean those components of process waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, EPA, Analytical Quality Control Laboratory, page 217.

§ 432.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best practical control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
BOD5	0.42	0.21
TSS	0.50	0.25
Oil and grease	0.16	0.08
Fecal coliform	(1)	(1)
pH	(2)	(2)
	English units (pounds per 1,000 lb LWK)	
BOD5	0.42	0.21
TSS	0.50	0.25
Oil and grease	0.16	0.08
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time 400 mpn/100 ml.

[2] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD*5*	0.06	0.03
TSS	0.12	0.06
	English units (pounds per 1,000 lb ELWK)	
BOD*5*	0.06	0.03
TSS	0.12	0.06

(e) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD*5*	0.02	0.01
TSS	0.04	0.02
	English units (pounds per 1,000 lb ELWK)	
BOD*5*	0.02	0.01
TSS	0.04	0.02

[39 FR 7897, Feb. 28, 1974; 39 FR 26423, July 19, 1974, as amended at 45 FR 82254, Dec. 15, 1980]

§ 432.23 [Reserved]

§ 432.24 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the complex slaughterhouse subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by-a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD*5*	Do.
TSS	Do.
Oil and grease	Do.
Fecal coliform	Do.

[40 FR 6446, Feb. 11, 1975]

§ 432.25 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site which may be discharged by a new source subject to the provisions of this subpart: The limitations shall be as specified in § 432.22(a), with the exception that in addition to the pollutants or pollutant properties controlled by that subsection, discharges of ammonia shall not exceed the limitations set forth below:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
Ammonia	0.48	0.24
	English units (pounds per 1,000 lb LWK)	
Ammonia	0.48	0.24

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.22(c):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.06	0.03
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.06	0.03

(c) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.22(d):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.10	0.05
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.10	0.05

(d) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the slaughterhouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.22(e):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.04	0.02
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.04	0.02

[39 FR 7897, Feb. 28, 1974; 39 FR 26423, July 19, 1974]

§ 432.26 Pretreatment standards for new sources.

The pretreatment standards for incompatible pollutants under section 307(c) of the Act for a source within the simple slaughterhouse subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except for § 128.133. Subject to the provisions of 40 CFR Part 128, process waste waters from a new source subject to the provisions of this subpart may be introduced into a publicly owned treatment works.

§ 432.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50748, Aug. 29, 1979; 45 FR 37199, June 2, 1980]

Subpart C—Low-Processing Packinghouse Subcategory

§ 432.30 Applicability; description of the low-processing packinghouse subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of red meat carcasses in whole or part, by low-processing packinghouses.

§ 432.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "packinghouse" shall mean a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products.

(c) The term "low processing packinghouse" shall mean a packinghouse that processes no more than the total animals killed at that plant, normally processing less than the total kill.

(d) The term "LWK" (live weight killed) shall mean the total weight of the total number of animals slaughtered during the time to which the effluent limitations apply; i.e., during any one day or any period of thirty consecutive days.

(e) The term "ELWK" (equivalent live weight killed) shall mean the total weight of the total number of animals slaughtered at locations other than the slaughterhouse or packinghouse, which animals provide hides, blood, viscera or renderable materials for processing at that slaughterhouse, in addition to those derived from animals slaughtered on-site.

(f) The term "oil and grease" shall mean those components of process waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, EPA, Analytical Quality Control Laboratory, page 217.

§ 432.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different fac-

tors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct, processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
BOD5	0.34	0.17
TSS	0.48	0.24
Oil and grease	0.16	0.08
Fecal coliform	(1)	(1)
pH	(2)	(2)
	English units (pounds per 1,000 lb LWK)	
BOD5	0.34	0.17
TSS	0.48	0.24
Oil and grease	0.16	0.08
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time 400 mpn/100 ml.

[2] Within the range 6.0 to 9.0.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.04	0.02
TSS	0.08	0.04

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.06	0.03
TSS	0.12	0.06
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.06	0.03
TSS	0.12	0.06

(e) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.02	0.01
TSS	0.04	0.02
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.02	0.01
TSS	0.04	0.02

§ 432.33 [Reserved]

§ 432.34 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the low-processing packinghouse subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.
Oil and grease	Do.
Fecal coliform	Do.

[40 FR 6447, Feb. 11, 1975]

§ 432.35 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or by product processing of carcasses of animals slaughtered on-site which may be discharged by a new source subject to the provisions of this subpart: The limitations shall be as specified in § 432.32(a), with the exception that in addition to the pollutants or pollutant properties controlled by that subsection, discharges of ammonia shall not exceed the limitations set forth below:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
Ammonia	0.48	0.24
	English units (pounds per 1,000 lb LWK)	
Ammonia	0.48	0.24

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.32(c):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.06	0.03
	English units (pounds per 1,000 lb ELWK)	
Ammonia	10.06	0.03

(c) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.32(a).

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.10	0.05
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.10	0.05

(d) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.32(e):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.04	0.02
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.04	0.02

[39 FR 7897, Feb. 28, 1974; 39 FR 26423, July 19, 1974]

§ 432.36 Pretreatment standards for new sources.

The pretreatment standards for incompatible pollutants under section 307(c) of the Act for a source within the simple slaughterhouse subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except for § 128.133. Subject to the provisions of 40 CFR Part 128, process waste waters from a new source subject to the provisions of this subpart may be introduced into a publicly owned treatment works.

§ 432.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50748, Aug. 29, 1979; 45 FR 37199, June 2, 1980]

Subpart D—High-Processing Packinghouse Subcategory

§ 432.40 Applicability; description of the high-processing packinghouse subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of red meat carcasses, in whole or part, by high-processing packinghouses.

§ 432.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "packinghouse" shall mean a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products.

(c) The term "high-processing packinghouse" shall mean a packinghouse which processes both animals slaughtered at the site and additional carcasses from outside sources.

(d) The term "LWK" (live weight killed) shall mean the total weight of the total number of animals slaughtered during the time to which the effluent limitations apply; i.e., during any one day or any period of thirty consecutive days.

(e) The term "ELWK" (equipment live weight killed) shall mean the total weight of the total number of animals slaughtered at locations other than the slaughterhouse or packinghouse, which animals provide hides, blood, viscera or renderable materials for processing at that slaughterhouse, in addition to those derived from animals slaughtered on-site.

(f) The term "oil and grease" shall mean those components of process waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, EPA, Analytical Quality Control Laboratory, page 217.

§ 432.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different fac-

tors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
BOD*5*+	0.48	0.24
TSS+	0.62	0.31
Oil and grease	0.26	0.13
Fecal coliform	(1)	(1)
pH	(2)	(2)
	English units (pounds per 1,000 lb LWK)	
BOD*5*+	0.48	0.24
TSS+	0.62	0.31
Oil and grease	0.26	0.13
Fecal coliform	(1)	(1)
pH	(2)	(2)

[1] Maximum at any time 400 mpn/100 ml.

[2] Within the range 6.0 to 9.0.

+The values for BOD5 and suspended solids are for average plants, i.e., plants with a ratio of average weight of processed meat products to average LWK of 0.55. Adjustments can be made for high-processing packinghouses at other ratios according to the following equations:

$$\text{kg BOD5/1000 kg LWK} = 0.21 + 0.23\,(v - 0.4)$$

$$\text{kg SS/1000 kg LWK} = 0.28 + 0.30\,(v - 0.4)$$

where

v-kg processed meat products/kg LWK.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD*5*	0.04	0.02
TSS	0.08	0.04
	English units (pounds per 1,000 lb ELWK)	
BOD*5*	0.04	0.02
TSS	0.08	0.04

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD*5*	0.04	0.02
TSS	0.08	0.04
	English units (pounds per 1,000 lb ELWK)	
BOD*5*	0.04	0.02
TSS	0.08	0.04

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.06	0.03
TSS	0.12	0.06
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.06	0.03
TSS	0.12	0.06

(e) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
BOD5	0.02	0.01
TSS	0.04	0.02
	English units (pounds per 1,000 lb ELWK)	
BOD5	0.02	0.01
TSS	0.04	0.02

§ 432.43 [Reserved]

§ 432.44 Pretreatment standards for existing sources.

The pretreatment standards under section 307(b) of the Act for a source within the high-processing packinghouse subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard
pH	No limitation.
BOD5	Do.
TSS	Do.
Oil and grease	Do.
Fecal coliform	Do.

[40 FR 6447, Feb. 11, 1975]

§ 432.45 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing or carcasses of animals slaughtered onsite which may be discharged by a new source subject to the provisions of this subpart: The limitations shall be as specified in § 432.42(a), with the exception that in addition to the pollutants or pollutant properties controlled by that subsection, discharges of ammonia shall not exceed the limitations set forth below:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg LWK)	
Ammonia	0.80	0.40
	English units (pounds per 1,000 lb LWK)	
Ammonia	0.80	0.40

(b) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the processing of blood derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.42(c):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.06	0.03
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.06	0.03

(c) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the wet or low temperature rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 423.42(d):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.10	0.05
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.10	0.05

(d) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the dry rendering of material derived from animals slaughtered at locations other than the packinghouse, which may be discharged by a new source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section and § 432.42(e):

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg ELWK)	
Ammonia	0.04	0.02
	English units (pounds per 1,000 lb ELWK)	
Ammonia	0.04	0.02

[39 FR 7897, Feb. 28, 1974; 39 FR 26423, July 19, 1974]

§ 432.46 Pretreatment standards for new sources.

The pretreatment standards for incompatible pollutants under section 307(c) of the Act for a source within the simple slaughterhouse subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the act if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except for

§ 128.133. Subject to the provisions of 40 CFR Part 128, process waste waters from a new source subject to the provisions of this subpart may be introduced into a publicly owned treatment works.

§ 432.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/ 100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50748, Aug. 29, 1979; 45 FR 37199, June 2, 1980]

Subpart E—Small Processor Subcategory

SOURCE: 40 FR 905, Jan. 3, 1975, unless otherwise noted.

§ 432.50 Applicability; description of the small processor subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of finished meat products such as fresh meat cuts, smoked products, canned products, hams, sausages, luncheon meats, or similar products by a small processor.

§ 432.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "small processor" shall mean an operation that produces up to 2730 kg (6000 lb) per day of any type or combination of finished products.

(c) The term "finished product" shall mean the final manufactured product as fresh meat cuts, hams, bacon or other smoked meats, sausage, luncheon meats, stew, canned meats or related products.

§ 432.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be ap-

proved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	2.0	1.0
TSS	2.4	1.2
Oil and grease	1.0	0.5
pH	(1)	(1)
Fecal coliforms	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	2.0	1.0
TSS	2.4	1.2
Oil and grease	1.0	0.5
pH	(1)	(1)
Fecal coliforms	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] No limitation.

§§ 432.53—432.54 [Reserved]

§ 432.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	1.0	0.5
TSS	1.2	0.6
Oil and grease	0.5	0.25
pH	(1)	(1)
Fecal coliforms	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	1.0	0.5
TSS	1.2	0.6
Oil and grease	0.5	0.25
pH	(1)	(1)
Fecal coliforms	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] No limitation.

§ 432.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the small processor subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
Oil and grease	Do.
pH	Do.
Fecal coliform	Do.

Subpart F—Meat Cutter Subcategory

SOURCE: 40 FR 906, Jan. 3, 1975, unless otherwise noted.

§ 432.60 Applicability; description of the meat cutter subcategory.

The provisions of this subpart are applicable to discharges resulting from the fabrication or manufacture of fresh meat cuts such as steaks, roasts, chops, etc. by a meat cutter.

§ 432.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "meat cutter" shall mean an operation which fabricates, cuts, or otherwise produces fresh meat cuts and related finished products from livestock carcasses, at rates greater than 2730 kg (6000 lb) per day.

(c) The term "finished product" shall mean the final manufactured product as fresh meat cuts including, but not limited to, steaks, roasts, chops, or boneless meats.

§ 432.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	0.036	0.018
TSS	0.044	0.022
Oil and grease	0.012	0.000
pH	(1)	(1)
Fecal coliforms	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	0.036	0.018
TSS	10.044	0.022
Oil and grease	0.012	0.006
pH	(1)	(1)
Fecal coliforms	(2)	(2)

[1] Within the range 6.0 to 9.0.

[2] Maximum at any time 400 mpn/100 ml.

§ 432.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter—effluent	
Ammonia	8.0 mg/l	4.0

[44 FR 50748, Aug. 29, 1979]

§ 432.64 [Reserved]

§ 432.65 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	0.036	0.018
TSS	0.044	0.022
Oil and grease	0.012	0.006
pH	(1)	(1)
Fecal coliforms	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	0.030	0.015
TSS	0.036	0.018
Oil and grease	0.012	0.006
pH	(1)	(1)
Fecal coliforms	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] Maximum at any time 400 mpn/100 ml.

§ 432.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the meat cutter subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
Oil and grease	Do.
pH	Do.
Fecal coliform	Do.

§ 432.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50749, Aug. 29, 1979]

Subpart G—Sausage and Luncheon Meats Processor Subcategory

Source: 40 FR 907, Jan. 3, 1975, unless otherwise noted.

§ 432.70 Applicability; description of the sausage and luncheon meat processor subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of fresh meat cuts, sausage, bologna, and other luncheon meats by a sausage and luncheon meat processor.

§ 432.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "sausage and luncheon meat processor" shall mean an operation which cuts fresh meats, grinds, mixes, seasons, smokes or otherwise produces finished products such as sausage, bologna and luncheon meats at rates greater than 2730 kg (6000 lb) per day.

(c) The term "finished product" shall mean the final manufactured product as fresh meat cuts including steaks, roasts, chops or boneless meat, bacon or other smoked meats (except hams) such as sausage, bologna or other luncheon meats, or related products (except canned meats).

§ 432.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD*5*	0.56	0.28
TSS	0.68	0.34
Oil and grease	0.20	0.10
pH	(1)	(1)
Fecal coliforms	(2)	(2)

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (lb/1,000 lb of finished product)	
BOD*5*	0.56	0.28
TSS	0.68	0.34
Oil and grease	0.20	0.10
pH	(1)	(1)
Fecal coliforms	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] Maximum at any time 400 mpn/100 ml.

§ 432.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

[Milligrams per liter—effluent]

Effluent characteristics	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia	80 mg/l	4.0

[44 FR 50748, Aug. 29, 1979]

§ 432.74 [Reserved]

§ 432.75 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new sources subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD*5*	0.56	0.28
TSS	0.68	0.34
Oil and grease	0.20	0.10
pH	(1)	(1)
Fecal coliforms	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD*5*	0.48	0.24
TSS	0.58	0.29
Oil and grease	0.20	0.10
pH	(1)	(1)
Fecal coliforms	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] Maximum at any time 400 mpn/100 ml.

§ 432.76 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the sausage and luncheon meat processor subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD*5*	No limitation.
TSS	Do.
Oil and grease	Do.
pH	Do.
Fecal coliform	Do.

§ 432.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50749, Aug. 29, 1979]

Subpart H—Ham Processor Subcategory

Source: 40 FR 908, Jan. 3, 1975, unless otherwise noted.

§ 432.80 Applicability; description of the ham processor subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of hams alone or in combination with other finished products by a ham processor.

§ 432.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "ham processor" shall mean an operation which manufactures hams alone or in combination with other finished products at rates greater than 2730 kg (6000 lb) per day.

(c) The term "finished products" shall mean the final manufactured product as fresh meat cuts including steaks, roasts, chops or boneless meat, smoked or cured hams, bacon or other smoked meats, sausage, bologna or other luncheon meats (except canned meats).

§ 432.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	0.62	0.31
TSS	0.74	0.37
Oil and grease	0.22	0.11
pH	(1)	(1)
Fecal coliform	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	0.62	0.31
TSS	0.74	0.37
Oil and grease	0.22	0.11
pH	(1)	(1)
Fecal coliform	(2)	(2)

[1] Within the range 6.0 to 9.0.

[2] Maximum at any time 400 mpn/100 ml.

§ 432.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

[Milligrams per liter—effluent]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia	8.0 mg/l	4.0

[44 FR 50748, Aug. 29, 1979]

§ 432.84 [Reserved]

§ 432.85 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	0.62	0.31
TSS	0.74	0.37
Oil and grease	0.22	0.11
pH	(1)	(1)
Fecal coliform	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	0.62	0.31
TSS	0.74	0.37
Oil and grease	0.22	0.11
pH	(1)	(1)
Fecal coliform	(2)	(2)

[1] Within the range 6.0 to 9.0.

[2] Maximum at any time 400 mpn/100 ml.

§ 432.86 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the ham processor subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
Oil and grease	Do.
pH	Do.
Fecal coliform	Do.

§ 432.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/ 100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50749, Aug. 29, 1979]

Subpart I—Canned Meats Processor Subcategory

SOURCE: 40 FR 909, Jan. 3, 1975, unless otherwise noted.

§ 432.90 Applicability; description of the canned meats processor subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of canned meats alone or in combination with any other finished products, by a canned meats processor.

§ 432.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "canned meat processor" shall mean an operation which prepares and cans meats (such as stew, sandwich spreads, or similar products) alone or in combination with other finished products at rates greater than 2730 kg (6000 lb.) per day.

(c) The term "finished products" shall mean the final manufactured product as fresh meat cuts including steaks, roasts, chops or boneless meat, hams, bacon or other smoked meats, sausage, bologna or other luncheon meats, stews, sandwich spreads or other canned meats.

§ 432.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different fac-

tors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	0.74	0.37
TSS	0.90	0.45
Oil and grease	0.26	0.12
pH	(1)	(1)
Fecal coliform	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	0.74	0.37
TSS	0.90	0.45
Oil and grease	0.26	0.13
pH	(1)	(1)
Fecal coliform	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] Maximum at any time 400 mpn/100 ml.

§ 432.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

[Milligrams per liter—effluent]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Ammonia	8.0 mg/l	4.0

[44 FR 50748, Aug. 29, 1979]

§ 432.94 [Reserved]

§ 432.95 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of finished product)	
BOD5	0.74	0.37
TSS	0.90	0.45
Oil and grease	0.26	0.13
pH	(1)	(1)
Fecal coliform	(2)	(2)
	English units (lb/1,000 lb of finished product)	
BOD5	0.74	0.37
TSS	0.90	0.45
Oil and grease	0.26	0.13
pH	(1)	(1)
Fecal coliform	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] Maximum at any time 400 mpn/100 ml.

§ 432.96 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the canned meat processor subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
Oil and grease	Do.
pH	Do.
Fecal coliform	Do.

§ 432.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/100 ml.
pH	Within the range 6.0 to 9.0.

[44 FR 50749, Aug. 29, 1979]

Subpart J—Renderer Subcategory

SOURCE: 40 FR 910, Jan. 3, 1975, unless otherwise noted.

§ 432.100 Applicability; description of the renderer subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of meat meal, dried animal by-product residues (tankage), animal oils, grease and tallow, perhaps including hide curing, by a renderer.

§ 432.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "renderer" shall mean an independent or off-site rendering operation, conducted separate from a slaughterhouse, packinghouse or poultry dressing or processing plant, which manufactures at rates greater than 75,000 pounds of raw material per day of meat meal, tankage, animal fats or oils, grease, and tallow, and may cure cattle hides, but excluding marine oils, fish meal, and fish oils.

(c) The term "tankage" shall mean dried animal by-product residues used in feedstuffs.

(d) The term "tallow" shall mean a product made from beef cattle or sheep fat that has a melting point of 40°C or greater.

(e) The term "raw material" or as abbreviated herein, "RM", shall mean the basic input materials to a renderer composed of animal and poultry trimmings, bones, meat scraps, dead animals, feathers and related usable by-products.

§ 432.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
BOD5	0.34	0.17
TSS	0.42	0.21
Oil and grease	0.20	0.10
pH	(1)	(1)
Fecal coliform	(2)	(2)
	English units (lb/1,000 lb of raw material)	
BOD5	0.34	0.17
TSS	0.42	0.21
Oil and grease	0.20	0.10
pH	(1)	(1)
Fecal coliform	(2)	(2)

[1] Within the range 6.0 to 9.0.
[2] Maximum at any time 400 mpn/100 ml.

(b) The limitations given in paragraph (a) of this section for BOD5 and TSS are derived for a renderer which does no cattle hide curing as part of the plant activities. If a renderer does conduct hide curing, the following empirical formulas should be used to derive an additive adjustment to the effluent limitations for BOD5 and TSS.

BOD5 Adjustment (kg/kkg RM)=[8.0× (number of hides)/kg of raw material]
(lb/1,000 lb RM)=[17.6×(number of hides)/ lbs of raw material]
TSS Adjustment (kg/kkg RM)=[11.0× (number of hides)/kg of raw material]
(lb/1,000 lb RM)=[24.2×(number of hides)/ lbs of raw material]

[40 FR 910, Jan. 3, 1975; 40 FR 11874, Mar. 14, 1975]

§ 432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of raw material)	
Ammonia	0.14	0.07
	English units (lb/1,000 lb of raw material)	
Ammonia	0.14	0.07

[44 FR 50748, Aug. 29, 1979]

§ 432.104 [Reserved]

§ 432.105 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section, the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.18	0.09
TSS	.22	.11
Oil and grease	.10	.05
Ammonia	.14	.07
pH	(1)	(1)
Fecal coliforms	(2)	(2)
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.18	0.09
TSS	.22	.11
Oil and grease	.10	.05
Ammonia	.14	.07
pH	(1)	(1)
Fecal coliforms	(2)	(2)

[1] Within the range 6.0 to 9.0.

[2] Maximum at any time 400 mpn/100 ml.

(b) The standards given in paragraph (a) of this section for BOD5 and TSS are derived for a renderer which does no cattle hide curing as part of the plant activities. If a renderer does conduct hide curing, the following empirical formulas should be used to derive an additive adjustment to the standards for BOD5 and TSS.

BOD5 adjustment (kilograms per 1,000 kg of raw material)=
8.0×(number of hides)/kilograms of raw material
(pounds per 1,000 lb of raw material)=
17.6×(number of hides)/pounds of raw material
TSS adjustment (kilograms per 1,000 kg of raw material)=
11.0×(number of hides)/kilograms of raw material
(pounds per 1,000 lb of raw material)=
24.2×(number of hides)/pounds of raw material

[42 FR 54419, Oct. 6, 1977]

§ 432.106 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the renderer subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by point source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
Oil and grease	Do.
pH	Do.
Fecal coliform	Do.

PART 434—COAL MINING POINT SOURCE CATEGORY

Subpart A—General Definitions

Sec.
434.10 Applicability.
434.11 General definitions.

Subpart B—Coal Preparation Plants and Associated Areas

434.20 Applicability.
434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
434.25 Standards of performance for new sources.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.
434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
434.35 Standards of performance for new sources.

Subpart D—Alkaline Mine Drainage Subcategory

Sec.
434.40 Applicability; description of the alkaline mine drainage subcategory.
434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
434.45 Standards of performance for new sources.

Subpart E—Areas Under Reclamation Subcategory

434.50 Applicability; description of the areas under reclamation subcategory.

Subpart F—Western Coal Mines Subcategory

434.60 Applicability; description of the Western coal mines subcategory.

AUTHORITY: Secs. 301, 304(b), Federal Water Pollution Control Act, as amended, (33 U.S.C. 1311, 1314(b)).

SOURCE: 42 FR 21380, Apr. 26, 1977, unless otherwise noted.

Subpart A—General Definitions

§ 434.10 Applicability.

Except as provided specifically in this subpart and in other subparts of this Part 434, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this part. The general definitions set forth in this Subpart A apply to all subparts of the Part 434.

§ 434.11 General definitions.

(a) The term "acid or ferruginous mine drainage" means mine drainage which before any treatment either has a pH of less than 6.0 or a total iron concentration of more than 10 mg/l.

(b) The term "active mining area" means a place where work or other activity related to the extraction, removal, or recovery of coal is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.

(c) The term "alkaline mine drainage" means mine drainage which before any treatment has a pH of more than 6.0 and a total iron concentration of less than 10 mg/l.

(d) The term "coal mine" means an active mining area, including all land and property placed upon, under or above the surface of such land, used in or resulting from the work of extracting coal from its natural deposits by any means or method, including secondary recovery of coal from refuse or other storage piles derived from the mining, cleaning, or preparation of coal.

(e) The term "coal preparation plant" means a facility where coal is crushed, screened, sized, cleaned, dried, or otherwise prepared and loaded for transit to a consuming facility.

(f) The term "coal preparation plant associated areas" means the coal preparation plant yards, immediate access roads, slurry ponds, drainage ponds, coal refuse piles, and coal storage piles and facilities.

(g) The term "mine drainage" means any water drained, pumped or siphoned from a coal mine.

(h) The term "ten-year 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable re-occurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments, or equivalent regional or rainfall probability information developed therefrom.

(i) The term "new source coal mine" shall mean a coal mine which:

(1) Was not assigned the applicable Mining Safety and Health Administration (MSHA) identification number under 30 CFR Part 82 prior to the proposal date of these new source performance standards and which, at such date, had no contractual obligation to purchase unique facilities or equipment as defined in Appendix A of 40 CFR Part 6, Guidance on Determining a New Source, or

(2) Is determined by the Regional Administrator to constitute a "major alteration" in accordance with 40 CFR Part 6 Appendix A (even if the applicable MSHA identification number is assigned prior to the proposal date of new source performance standards). In

making this determination, the Regional Administrator shall take into account the occurrence of one or more of the following events, in connection with the mine for which the NPDES permit is being considered, after the date of proposal of applicable new source performance standards:

(i) A mine operation initiates extraction of a coal seam not previously extracted by that mine;

(ii) A mine operation discharges into a drainage area not previously affected by waste water discharges from the mine;

(iii) A mine operation causes extensive new surface disruption;

(iv) A mine operation initiates construction of a new shaft, slope, or drift;

(v) A mine operation makes significant capital investment in additional equipment or additional facilities;

(vi) Such other factors as the Regional Administrator deems relevant.

[42 FR 21380, Apr. 26, 1977, as amended at 44 FR 2589, Jan. 12, 1979; 45 FR 43414, June 27, 1980]

Subpart B—Coal Preparation Plants and Associated Areas

§ 434.20 Applicability.

The provisions of this subpart are applicable to discharges from coal preparation plants and associated areas, including discharges which are pumped, siphoned or drained from coal storage, refuse storage and coal preparation plant ancillary areas related to the cleaning or beneficiation of coal of any rank including but not limited to bituminous, lignite and anthracite.

§ 434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the concentration of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from that point source normally are acidic prior to treatment.

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The following limitations establish the concentration of pollutants, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from that point source normally are alkaline prior to treatment.

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
TSS	70.0	35.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(c) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this paragraph have been met.

(d) Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitations in paragraph (a) of this section will be achieved.

(e) Where discharges from coal preparation plants and associated areas are combined for treatment or discharge with wastewater from sources within other subcategories in this point source category, the concentration of pollutants allowed to be discharged in the combined discharge shall not exceed the concentration of pollutants which would be allowed under the respective limitations applicable to that subcategory (or subcategories). Where a parameter (manganese or total iron as examples) is subject to different limitations under different subparts, the more stringent limitation applies.

[42 FR 21380, Apr. 26, 1977, as amended at 44 FR 76791, Dec. 28, 1979]

§ 434.25 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

(1) Discharge of pollutants shall not exceed the following limitations, if discharges from that point source normally are acidic prior to treatment:

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	70.0	35.0
Iron, total	6.0	3.0
Manganese, total	4.0	2.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(2) Discharge of pollutants shall not exceed the following limitations, if discharges from that point source normally are alkaline prior to treatment:

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	70.0	35.0
Iron, total	6.0	3.0
pH	(1)	(1)

(1) Within the range 6.0 to 9.0.

(b) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this paragraph have been met.

(c) Where the application of neutralization and sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved.

[44 FR 2590, Jan. 12, 1979, as amended at 44 FR 76791, Dec. 28, 1979]

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

§ 434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.

The provisions of this subpart are applicable to acid or ferruginous mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

§ 434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are sound to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the concentration of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

[In milligrams per liter]

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70.0 [1]	[1]35.0
pH	(2)	(2)

[1] These TSS effluent limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

[2] Within the range 6.0 to 9.0.

(b) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this paragraph have been met.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

(d) Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitations in paragraph (a) of this section, will be achieved.

[42 FR 21380, Apr. 26, 1977, as amended at 44 FR 76791, Dec. 28, 1979]

§ 434.35 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[In milligrams per liter]

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	[1]70.0	[1]35.0
Iron, total	6.0	3.0
Manganese, total	4.0	2.0
pH	(2)	(2)

[1] These TSS limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

[2] Within the range of 6 to 9.

(b) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this paragraph have been met.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

(d) Where the application of neutralization and sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved.

[44 FR 2590, Jan.12, 1979, as amended at 44 FR 76791, Dec. 28, 1979]

Subpart D—Alkaline Mine Drainage Subcategory

§ 434.40 Applicability; description of the alkaline mine drainage subcategory.

The provisions of this subpart are applicable to alkaline mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

§ 434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the concentration of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

[In milligrams per liter]

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
TSS	70.0 [1]	[1] 35.0
pH	(2)	(2)

[1] These TSS effluent limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

[2] Within the range 6.0 to 9.0.

(b) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this paragraph have been met.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

[42 FR 21380, Apr. 26, 1977, as amended at 44 FR 76791, Dec. 28, 1979]

§ 434.45 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[In milligrams per liter]

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	[1]70.0	[1]35.0
Iron, total	6.0	3.0
pH	([2])	([2])

[1] These TSS limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

[2] Within the range 6.0 to 9.0.

(b) Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this paragraph have been met.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

[44 FR 2590, Jan. 12, 1979, as amended at 44 FR 76791, Dec. 28, 1979]

Subpart E—Areas Under Reclamation Subcategory

§ 434.50 Applicability; description of the areas under reclamation subcategory.

The provisions of this subpart are applicable to discharges from surface mining areas where grading has been completed and the area of land is bonded by an appropriate reclamation bond.

[44 FR 2590, Jan. 12, 1979]

Subpart F—Western Coal Mines Subcategory

§ 434.60 Applicability; description of the Western coal mines subcategory.

The provisions of this subpart are applicable to mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite from mines located west of the 100-degree meridian.

[44 FR 2591, Jan. 12, 1979]

PART 435—OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

Subpart A—Offshore Subcategory

Sec.

435.10 Applicability; description of the offshore subcategory.
435.11 Specialized definitions.
435.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—[Reserved]

Subpart C—Onshore Subcategory

435.30 Applicability; description of the onshore subcategory.

Sec.
435.31 Specialized definitions.
435.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best praticable control technology currently available.

Subpart D—Coastal Subcategory

435.40 Applicability; description of the coastal subcategory.
435.41 Specialized definitions.
435.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart E—Agricultural and Wildlife Water Use Subcategory

435.50 Applicability; description of the beneficial use subcategory.
435.51 Specialized definitions.
435.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F—Stripper Subcategory

435.60 Applicability; description of the stripper subcategory.
435.61 Specialized definitions.

AUTHORITY: Secs. 301, 304(b) and (c), Clean Water Act of 1977, 33 U.S.C. 1251 et seq.; Pub. L. 95-217.

SOURCE: 44 FR 22075, Apr. 13, 1979.

Subpart A—Offshore Subcategory

§ 435.10 Applicability; description of the offshore subcategory.

The provisions of this subpart are applicable to those facilities engaged in the production, field exploration, drilling, well production, and well treatment in the oil and gas extraction industry which are located seaward of the inner boundary of the territorial seas as defined in 40 CFR 125.1(gg).

§ 435.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "M10" shall mean those offshore facilities continuously manned by ten (10) or more persons.

(c) The term "M9IM" shall mean those offshore facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons.

(d) The term "no discharge of free oil" shall mean that a discharge does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

§ 435.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of facility, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain facilities in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protectional Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent limitations—Oil and grease

[In milligrams per liter]

Pollutant parameter waste source	Maximum for any 1 day	Average of values for 30 consecutive days shall not exceed	Residual chlorine minimum for any 1 day
Produced water	72	48	NA
Deck drainage	([1])	([1])	NA
Drilling muds	([1])	([1])	NA
Drill cuttings	([1])	([1])	NA
Well treatment	([1])	([1])	NA
Sanitary:			
M10	NA	NA	[2]1
M9IM [3]	NA	NA	NA
Domestic	NA	NA	NA

[1] No discharge of free oil.

[2] Minimum of 1mg/l and maintained as close to this concentration as possible.

[3] There shall be no floating solids as a result of the discharge of these wastes.

Subpart B—[Reserved]

Subpart C—Onshore Subcategory

§ 435.30 Applicability; description of the onshore subcategory.

The provisions of this subpart are applicable to those facilities engaged in the production, field exploration, drilling, well completion and well treatment in the oil and gas extraction industry which are located landward of the inner boundary of the territorial seas as defined in 40 CFR 125.1(gg) and which are not included within Subpart D, E, or F.

§ 435.31 Specialized definitions.

For the purpose of this subpart: (a) The general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 435.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of facility, raw materials, production processes, product produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: there shall be no discharge of waste water pollutants into navigable waters from any source associated with production, field exploration, drilling, well completion, or well treatment (i.e., produced water, drilling muds, drill cuttings, and produced sand).

Subpart D—Coastal Subcategory

§ 435.40 Applicability; description of the coastal subcategory.

The provisions of this subpart are applicable to facilities engaged in the production, field exploration, drilling, well completion and well treatment in areas defined as coastal. These facilities are in the oil and gas extraction industry.

§ 435.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "M10" shall mean those coastal facilities continuously manned by ten (10) or more persons.

(c) The term "M9IM" shall mean those coastal facilities continuously manned by nine (9) or fewer persons or intermittently manned by any number of persons.

(d) The term "no discharge of free oil" shall mean that a discharge does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

(e) The term "coastal" shall mean: (1) any body of water landward of the territorial seas as defined in 40 CFR 125.1(gg), or (2) any wetlands adjacent to such waters.

(f) The term "wetlands" shall mean those surface areas which are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

§ 435.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of facility, raw materials, production processes, product produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be ap-

proved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent limitations—Oil and grease

[In milligrams per liter]

Pollutant parameter waste source	Maximum for any 1 day	Average of values for 30 consecutive days shall not exceed	Residual chlorine minimum for any 1 day
Produced water	72	48	NA
Deck drainage	([1])	([1])	NA
Drilling muds	([1])	([1])	NA
Drill cuttings	([1])	([1])	NA
Well treatment	([1])	([1])	NA
Sanitary:			
M10	NA	NA	[2]1
M9IM [3]	NA	NA	NA
Domestic [3]	NA	NA	NA

[1] No discharge of free oil.

[2] Minimum of 1mg/l and maintained as close to this concentration as possible.

[3] There shall be no floating solids as a result of the discharge of these wastes.

Subpart E—Agricultural and Wildlife Water Use Subcategory

§ 435.50 Applicability; description of the beneficial use subcategory.

The provisions of this subpart are applicable to those onshore facilities located in the continental United States and west of the 98th meridian for which the produced water has a use in agriculture or wildlife propagation when discharged into navigable waters. These facilities are engaged in the production, drilling, well completion, and well treatment in the oil and gas extraction industry.

§ 435.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "onshore" shall mean all land areas landward of the territorial seas as defined in 40 CFR 125.1(gg).

(c) The term "use in agricultural or wildlife propagation" means that the produced water is of good enough quality to be used for wildlife or livestock watering or other agricultural uses and that the produced water is actually put to such use during periods of discharge.

§ 435.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of facility, raw materials, production processes, product produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) There shall be no discharge of waste pollutants into navigable waters from any source (other than produced water) associated with production, field exploration, drilling, well completion, or well treatment (i.e. drilling muds, drill cuttings, and produced sands).

(2) Produced water discharges shall not exceed the following daily maximum limitation:

Effluent characteristics: Effluent limitation (mg/l).

Oil and Grease: 35.

Subpart F—Stripper Subcategory

§ 435.60 Applicability; description of the stripper subcategory.

The provisions of this subpart are applicable to those onshore facilities which produce 10 barrels per well per calendar day or less of crude oil and which are operating at the maximum feasible rate of production and in accordance with recognized conservation practices. These facilities are engaged in production, and well treatment in the oil and gas extraction industry.

§ 435.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "onshore" shall mean all land areas landward of the inner boundary of the territorial seas as defined in 40 CFR 125.1(gg).

(c) The term "well" shall means crude oil producing wells and shall not include gas wells or wells injecting water for disposal or for enchanced recovery of oil or gas.

(d) The term "gas well" shall mean any well which produces natural gas in a ratio to the petroleum liquids produced greater than 15,000 cubic feet of gas per 1 barrel (42 gallons) of petroleum liquids.

PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

Subpart A—Dimension Stone Subcategory—[Reserved]

Subpart B—Crushed Stone Subcategory

Sec.
436.20 Applicability; description of the crushed stone subcategory.
436.21 Specialized definitions.
436.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Construction Sand and Gravel Subcategory

436.30 Applicability; description of the construction sand and gravel subcategory.
436.31 Specialized definitions.
436.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D—Industrial Sand Subcategory

436.40 Applicability; description of the industrial sand subcategory.
436.41 Specialized definitions.
436.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart E—Gypsum Subcategory

436.50 Applicability; description of the gypsum subcategory.
436.51 Specialized definitions.

Sec.
436.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F—Asphaltic Mineral Subcategory

436.60 Applicability; description of the asphaltic mineral subcategory.
436.61 Specialized definitions.
436.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart G—Asbestos and Wollastonite Subcategory

436.70 Applicability; description of the asbestos and wollastonite subcategory.
436.71 Specialized definitions.
436.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart H—Lightweight Aggregates Subcategory [Reserved]

Subpart I—Mica and Sericite Subcategory [Reserved]

Subpart J—Barite Subcategory

436.100 Applicability; description of the barite subcategory.
436.101 Specialized definitions.
436.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart K—Fluorspar Subcategory

436.110 Applicability; description of the fluorspar subcategory.
436.111 Specialized definitions.
436.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart L—Salines From Brine Lakes Subcategory

436.120 Applicability; description of the salines from brine lakes subcategory.
436.121 Specialized definitions.
436.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart M—Borax Subcategory

436.130 Applicability; description of the borax subcategory.
436.131 Specialized definitions.
436.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart N—Potash Subcategory

436.140 Applicability: description of the potash subcategory.
436.141 Specialized definitions.
436.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best praticable control technology currently available.

Supart O—Sodium Sulfate Subcategory

436.150 Applicability: description of the sodium sulfate subcategory.
436.151 Specialized definitions.
436.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart P—Trona Subcategory [Reserved]

Subpart Q—Rock Salt Subcategory [Reserved]

Subpart R—Phosphate Rock Subcategory

436.180 Applicability; description of the phosphate rock subcategory.
436.181 Specialized definitions.
436.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
436.183—436.184 [Reserved]
436.185 Standards of performance for new sources.

Subpart S—Frasch Sulfur Subcategory

436.190 Applicability; description of the Frasch sulfur subcategory.
436.191 Specialized definitions.

Sec.
436.192 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart T—Mineral Pigments Subcategory [Reserved]

Subpart U—Lithium Subcategory [Reserved]

Subpart V—Bentonite Subcategory

436.220 Applicability; description of the bentonite subcategory.
436.221 Specialized definitions.
436.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart W—Magnesite Subcategory

436.230 Applicability; description of the magnesite subcategory.
436.231 Specialized definitions.
436.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart X—Diatomite Subcategory

436.240 Applicability; description of the diatomite subcategory.
436.241 Specialized definitions.
436.242 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart Y—Jade Subcategory

436.250 Applicability; description of the jade subcategory.
436.251 Specialized definitions.
436.252 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart Z—Novaculite Subcategory

436.260 Applicability; description of the novaculite subcategory.
436.261 Specialized definitions.
436.262 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart AA—Fire Clay Subcategory [Reserved]

Subpart AB—Attapulgite and Montmorillonite Subcategory [Reserved]

Subpart AC—Kyanite Subcategory [Reserved]

Subpart AD—Shale and Common Clay Subcategory [Reserved]

Subpart AE—Aplite Subcategory [Reserved]

Subpart AF—Tripoli Subcategory

Sec.
436.320 Applicability; description of the tripoli subcategory.
436.321 Specialized definitions.
436.322 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart AG—Kaolin Subcategory [Reserved]

Subpart AH—Ball Clay Subcategory [Reserved]

Subpart AI—Feldspar Subcategory [Reserved]

Subpart AJ—Talc, Steatite, Soapstone and Pyrophyllite Subcategory [Reserved]

Subpart AK—Garnet Subcategory [Reserved]

Subpart AL—Graphite Subcategory

436.380 Applicability; description of the graphite subcategory.
436.381 Specialized definitions.
436.382 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Sec. 301, 304 (b) and (c) Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 86 Stat. 816 et seq., Pub. L. 92-500) (the Act), unless otherwise noted.

SOURCE: 40 FR 48657, Oct. 16, 1975, unless otherwise noted.

Subpart A—Dimension Stone Subcategory—[Reserved]

Subpart B—Crushed Stone Subcategory

SOURCE: 42 FR 35849, July 12, 1977, unless otherwise noted.

§ 436.20 Applicability; description of the crushed stone subcategory.

The provisions of this subpart are applicable to the mining or quarrying and the processing of crushed and broken stone and riprap. This subpart includes all types of rock and stone. Rock and stone that is crushed or broken prior to the extraction of a mineral are elsewhere covered. The processing of calcite, however, in conjunction with the processing of crushed and broken limestone or dolomite is included in this subpart.

§ 436.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is impounded or that collects in the mine and is pumped, drained or otherwise removed from the mine through the efforts of the mine operator. However, if a mine is also used for treatment of process generated waste water, discharges of commingled water from the facilities shall be deemed discharges of process generated waste water.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24-hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively mined for the production of crushed and broken stone from natural deposits.

(e) The term "process generated waste water" shall mean any waste water used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such waste water in a pit, pond, lagoon, mine, or other facility used for treatment of such waste water.

§ 436.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) Discharges of process generated waste water pollutants from facilities that recycle waste water for use in processing shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	[1]	[1]

[1] Within the range 6.0 to 9.0.

(2) Mine dewatering discharges shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	[1]	[1]

[1] Within the range 6.0 to 9.0.

(b) Any overflow from facilities governed by this subpart shall not be subject to the limitations of paragraph (a) of this section if the facilities are designed, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitations for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

[42 FR 35849, July 12, 1977, as amended at 44 FR 76793, Dec. 28, 1979]

Subpart C—Construction Sand and Gravel Subcategory

SOURCE: 42 FR 35850, July 12, 1977, unless otherwise noted.

§ 436.30 Applicability; description of the construction sand and gravel subcategory.

The provisions of this subpart are applicable to the mining and the processing of sand and gravel for construction or fill uses, except that on-board processing of dredged sand and gravel which is subject to the provisions of 33 CFR Part 230 of this chapter will not be governed by the provisions of this subpart.

§ 436.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is impounded or that collects in the mine and is pumped, drained or otherwise removed from the mine through the efforts of the mine operator. This term shall also include wet pit overflows caused solely by direct rainfall and ground water seepage. However, if a mine is also used for treatment of process generated waste water, discharges of commingled water from the mine shall be deemed discharges of process generated waste water.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and

"NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively mined for the production of sand and gravel from natural deposits.

(e) The term "process generated waste water" shall mean any waste water used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such waste water in a pit, pond, lagoon, mine or other facility used for treatment of such waste water. The term does not include waste water used for the suction dredging of deposits in a body of water and returned directly to the body of waste without being used for other purposes or combined with other waste water.

§ 436.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) Discharges of process generated waste water pollutants from facilities that recycle waste water for use in processing shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(2) Mine dewatering discharges shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any overflow from facilities governed by this subpart shall not be subject to the limitations of paragraph (a) of this section if the facilities are designed, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

[42 FR 35850, July 12, 1977, as amended at 44 FR 76793, Dec. 28, 1979]

Subpart D—Industrial Sand Subcategory

SOURCE: 42 FR 35851, July 12, 1977, unless otherwise noted.

§ 436.40 Applicability; description of the industrial sand subcategory.

The provisions of this subpart are applicable to the mining and the processing of sand and gravel for uses other than construction and fill. These uses include, but are not limited to glassmaking, molding, abrasives, filtration, refractories, and refractory bonding.

§ 436.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is impounded or that collects in the mine and is pumped, drained, or otherwise removed from the mine through the efforts of the mine operator. This term shall also include wet pit overflows caused solely by direct rainfall and ground water seepage. However, if a mine is also used for the treatment of process generated waste water, discharges of commingled water from the mine shall be deemed discharges of process generated waste water.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land actively mined for the production of sand and gravel from natural deposits.

(e) The term "process generated waste water" shall mean any waste water used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such waste water in a pit, pond, lagoon, mine or other facility used for treatment of such waste water. The terms does not include waste water used for the suction dredging of deposits in a body of water and returned directly to the body of water without being used for other purposes or combined with other waste water.

§ 436.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart with the exception of operations using acid leaching, after application of the best practicable control technology currently available:

(1) With the exception of operation using HF flotation, discharges of process waste water pollutants from facilities that recycle waste water, for use in the processing shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	45 mg/l	25 mg/l.
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(2) Except as provided in paragraphs (a)(1) and (3) of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(3) Process generated waste water from facilities employing HF flotation shall not exceed the following limitations:

[Metric units, kg/kkg of total product; English units, lb/1,000 lb of total product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	0.046	0.023
Total fluoride	.006	.003
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(4) Mine dewatering discharges shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	45 mg/l	25 mg/l.
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any overflow from facilities governed by this subpart shall not be subject to the limitations of paragraph (a) of this section if the facilities are designed, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event.

(c) In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards approved under the Act authorize such lower pH, the pH limitation for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range 5.0 to 9.0 be permitted.

Subpart E—Gypsum Subcategory

§ 436.50 Applicability; description of the gypsum subcategory.

The provisions of this subpart are applicable to the processing of gypsum.

§ 436.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environemental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For operations not employing wet air emissions control scrubbers there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart F—Asphaltic Mineral Subcategory

§ 436.60 Applicability; description of the asphaltic mineral subcategory.

The provisions of this subpart are applicable to the processing of bituminous limestone, oil-impregnated diatomite and oilsonite not primarily as an energy source.

§ 436.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart G—Asbestos and Wollastonite Subcategory

§ 436.70 Applicability; description of the asbestos and wollastonite subcategory.

The provisions of this supbart are applicable to the processing of asbestos and wollastonite.

§ 436.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity of or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of th following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart H—Lightweight Aggregates Subcategory [Reserved]

Subpart I—Mica and Sericite Subcategory [Reserved]

Subpart J—Barite Subcategory

§ 436.100 Applicability; description of the barite subcategory.

The provisions of this subpart are applicable to the processing of barite.

§ 436.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: For operations not employing wet processes or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

Subpart K—Fluorspar Subcategory

§ 436.110 Applicability; description of the fluorspar subcategory.

The provisions of this subpart are applicable to the processing of fluorspar.

§ 436.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied of other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: For operations not employing heavy media separation or floatation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

Subpart L—Salines From Brine Lakes Subcategory

§ 436.120 Applicability; description of the salines from brine lakes subcategory.

The provisions of this subpart are applicable to the processing of salines from brine lakes.

§ 436.121 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) The limitations specified in paragraph (a) of this section shall be applied on a net basis if the discharge is in compliance with § 125.28 of this chapter "the source of the applicant's water supply is the same body of water into which the discharge is made * * *".

Subpart M—Borax Subcategory

§ 436.130 Applicability; description of the borax subcategory.

The provisions of this subpart are applicable to the processing of borate minerals. Borax obtained from brine lakes is regulated in the salines from brine lakes subcategory (Subpart L of this part).

§ 436.131 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart N—Potash Subcategory

AUTHORITY: Sec. 306, Federal Water Pollution Control Act, as amended.

§ 436.140 Applicability; description of the potash subcategory.

The provisions of this subpart are applicable to the processing of potash. Potash obtained from brine lakes is regulated in the saline from brine lakes subcategory (Subpart L of this part).

§ 436.141 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart O—Sodium Sulfate Subcategory

§ 436.150 Applicability; description of the sodium sulfate subcategory.

The provisions of this subpart are applicable to the processing of sodium sulfate. Sodium sulfate obtained from brine lakes is regulated in the salines from brine lakes subcategory (Subpart L of this part).

§ 436.151 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart P—Trona Subcategory [Reserved]

Subpart Q—Rock Salt Subcategory [Reserved]

Subpart R—Phosphate Rock Subcategory

AUTHORITY: Sec. 306, Federal Water Pollution Control Act, as amended.

§ 436.180 Applicability; description of the phosphate rock subcategory.

The provisions of this subpart are applicable to the mining and the processing of phosphate bearing rock, ore or earth for the phosphate content.

[43 FR 9809, Mar. 10, 1978]

§ 436.181 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is impounded or that collects in the mine and is pumped, drained or otherwise removed from the mine through the efforts of the mine operator.

(c) The term "10-year 24-hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively used for or resulting from the extraction of a mineral from natural deposits.

(e) The term "process generated waste water" shall mean any waste water used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such waste water in a pit, pond lagoon, mine, or other facility used for settling or treatment of such waste water.

[43 FR 9809, Mar. 10, 1978]

§ 436.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(1) Discharges of process generated waste water and mine dewatering discharges, shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	60 mg./l.	30 mg./l.
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

(b) Any overflow from facilities governed by this subpart shall not be subject to the limitations of paragraph (a) of this section if the facilities are desiged, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event.

[42 FR 35852, July 12, 1977]

§§ 436.183—436.184 [Reserved]

§ 436.185 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology.

(1) Discharges of process generated waste water and mine dewatering discharges, shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	60 mg/l	30 mg/l.
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any overflow from facilities governed by this subpart shall not be subject to the limitations of paragraph (a) of this section if the facilities are designed, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event.

[43 FR 9810, Mar. 10, 1978]

Subpart S—Frasch Sulfur Subcategory

§ 436.190 Applicability; description of the Frasch sulfur subcategory.

The provisions of this subpart are applicable to the processing of sulfur on shore and in marshes and estuaries by the Frasch process. Not covered are sulfur refining operations that are not performed at the mining and collection site.

§ 436.191 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.192 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section for operations mining anhydrite deposits, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart T—Mineral Pigments Subcategory [Reserved]

Subpart U—Lithium Subcategory [Reserved]

Subpart V—Bentonite Subcategory

§ 436.220 Applicability; description of the bentonite subcategory.

The provisions of this subpart are applicable to the processing of bentonite.

§ 436.221 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process generated waste water pollutants into navigable waters.

Subpart W—Magnesite Subcategory

§ 436.230 Applicability; description of the magnesite subcategory.

The provisions of this subpart are applicable to the processing of naturally occurring magnesite ore.

§ 436.231 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart X—Diatomite Subcategory

§ 436.240 Applicability; description of the diatomite subcategory.

The provisions of this subpart are applicable to the processing of diatomite.

§ 436.241 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.242 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart Y—Jade Subcategory

§ 436.250 Applicability; description of the jade subcategory.

The provisions of this subpart are applicable to the processing of jade.

§ 436.251 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.252 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart Z—Novaculite Subcategory

§ 436.260 Applicability; description of the novaculite subcategory.

The provisions of this subpart are applicable to the processing of novaculite.

§ 436.261 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.262 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart AA—Fire Clay Subcategory [Reserved]

Subpart AB—Attapulgite and Montmorillonite Subcategory [Reserved]

Subpart AC—Kyanite Subcategory [Reserved]

Subpart AD—Shale and Common Clay Subcategory [Reserved]

Subpart AE—Aplite Subcategory [Reserved]

Subpart AF—Tripoli Subcategory

§ 436.310 Applicability; description of the tripoli subcategory.

The provisions of this subpart are applicable to the processing of tripoli.

§ 436.321 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.322 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: For operations not employing wet processes there shall be no discharge of process generated waste water pollutants into navigable waters.

Subpart AG—Kaolin Subcategory [Reserved]

Subpart AH—Ball Clay Subcategory [Reserved]

Subpart AI—Feldspar Subcategory [Reserved]

Subpart AJ—Talc, Steatite, Soapstone and Pyrophyllite Subcategory [Reserved]

Subpart AK—Garnet Subcategory [Reserved]

Subpart AL—Graphite Subcategory

§ 436.380 Applicability; description of the graphite subcategory.

The provisions of this subpart are applicable to the mining and processing of naturally occurring graphite.

§ 436.381 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "mine drainage" shall mean any water drained, pumped or siphoned from a mine.

§ 436.382 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interest-

ed person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations for process waste water and mine dewatering establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, process waste water and mine drainage shall meet the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	20 mg/l	10 mg/l.
Total Fe	2 mg/l	1 mg/l.
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

PART 439—PHARMACEUTICAL MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Fermentation Products Subcategory

Sec.
439.10 Applicability; description of the fermentation products subcategory.
439.11 Specialized definitions.
439.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—Extraction Products Subcategory

439.20 Applicability; description of the extraction products subcategory.
439.21 Specialized definitions.
439.22 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Chemical Synthesis Products Subcategory

439.30 Applicability; description of the chemical synthesis products subcategory.
439.31 Specialized definitions.
439.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D—Mixing/Compounding and Formulation Subcategory

439.40 Applicability; description of the mixing/compounding and formulation subcategory.
439.41 Specialized definitions.

Sec.
439.42 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart E—Research Subcategory

439.50 Applicability; description of the research subcategory.
439.51 Specialized definitions.
439.52 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304 (b) and (c) and 306(b), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c) and 1316(b), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

SOURCE: 41 FR 50677, Nov. 17, 1976, unless otherwise noted.

Subpart A—Fermentation Products Subcategory

§ 439.10 Applicability; description of the fermentation products subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceuticals by fermentation.

§ 439.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean pharmaceutical products derived from fermentation processes.

§ 439.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs, which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested persons may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a fermentation products plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable effluent discharge limitation for the daily average mass of BOD5 in any calendar month shall be expressed in mass per unit time and shall specifically reflect not less than 90% reduction in the long term daily average raw waste content of BOD5 multiplied by a variability factor of 3.0.

(2) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall be expressed in mass per unit time and shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2.

(3) The long term daily average raw waste load for the pollutant BOD5 and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(4) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD5 and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with separable mycelia and solvents in those raw waste loads; provided that residual amounts of mycelia and solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in calculation of raw waste loads. These practices of removal, disposal or reuse include physical separation and removal of separable mycelia, recovery of solvents from waste streams, incineration of concentrated solvent waste streams (including tar still bottoms) and broth concentrated for disposal other than to the treatment system. This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(5) The pH shall be within the range of 6.0-9.0 standard units.

[41 FR 50677, Nov. 17, 1976, as amended at 42 FR 6814, Feb. 4, 1977]

Subpart B—Extraction Products Subcategory

§ 439.20 Applicability; description of the extraction products subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceuticals by extraction.

§ 439.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean biological and natural extraction products. This subcategory shall include blood fractions, vaccines, serums, animal bile derivatives, endocrine products and isolation of medicinal products, such as alkaloids, from botanical drugs and herbs.

§ 439.22 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested persons may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by an extraction products plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD5 and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associated with an influent to the wastewater treatment plant corresponding to the maximum production for a given pharmaceutical plant.

(2) The allowable effluent discharge limitation for the daily average mass of BOD5 in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD5 multiplied by a variability factor of 3.0.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2.

(4) The long term daily average raw waste load for the pollutant BOD5 and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD5 and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads; *Provided*, That residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in calculation of raw waste loads. These practices of removal, disposal or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(6) The average of daily TSS values for any calendar month shall not exceed 52 mg/l.

(7) The pH shall be within the range of 6.0-9.0 standard units.

Subpart C—Chemical Synthesis Products Subcategory

§ 439.30 Applicability; description of the chemical synthesis plants subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceuticals by chemical synthesis.

§ 439.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean chemical synthesis products.

§ 439.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by chemical synthesis plants from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD5 and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associated with an influent to the wastewater treatment plant corresponding to the maximum production for a given pharmaceutical plant.

(2) The allowable effluent discharge limitation for the daily average mass of BOD5 in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD5 multiplied by a variability factor of 3.0.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability facttor of 2.2.

(4) The long term daily average raw waste load for the pollution BOD5 and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD5 and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads: *Provided,* That residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be in-

cluded in calculation of raw waste loads. These practices of removal, disposal or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(6) The pH shall be within the range of 6.0 to 9.0 standard units.

Subpart D—Mixing/Compounding and Formulation Subcategory

§ 439.40 Applicability; description of the mixing/compounding and formulation subcategory.

The provisions of this subpart are applicable to discharges resulting from mixing/compounding and formulation operations of pharmaceutical products.

§ 439.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean products from plants which blend, mix, compound, and formulate pharmaceutical ingredients. Pharmaceutical preparations for human and veterinary use such as ampuls, tablets, capsules, vials, ointments, medicinal powders, solutions and suspensions are included.

§ 439.42 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a mixing/compounding and formulation plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD_5 and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associat-

ed with an influent to the wastewater treatment plant corresponding to the maximum production for a given pharmaceutical plant.

(2) The allowable effluent discharge limitation for the daily average mass of BOD5 in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD5 multiplied by a variability factor of 3.0.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2.

(4) The long term daily average raw waste load for the pollutant BOD5 and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD5 and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads; *Provided*, That residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in calculation of raw waste loads. These practices of removal, disposal or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(6) The average of daily TSS values for any calendar month shall not exceed 52 mg/l.

(7) The pH shall be within the range of 6.0 to 9.0 standard units.

Subpart E—Research Subcategory

§ 439.50 Applicability; description of the research subcategory.

The provisions of this subpart are applicable to discharges resulting from pharmaceutical research.

§ 439.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean products or service resulting from pharmaceutical research, which includes microbiological, biological and chemical operations.

§ 439.52 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested persons may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a pharmaceutical research operation from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD5 and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associated with an influent to the wastewater treatment plant corresponding to the maximum research effort for a given pharmaceutical plant.

(2) The allowable effluent discharge limitation for the daily average mass of BOD5 in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD5 multiplied by a variability factor of 3.0.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2.

(4) The long term daily average raw waste load for the pollutant BOD5 and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months.

(5) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD5 and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads; *Provided*, That residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in calculation of raw waste loads. These practices of removal, disposal or reuse include recoverey of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof programs and practices.

(6) The average of daily TSS values for any calendar month shall not exceed 52 mg/l.

(7) The pH shall be within the range of 6.0 to 9.0 standard units.

PART 440—ORE MINING AND DRESSING POINT SOURCE CATEGORY

Subpart A—Iron Ore Subcategory

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440.10 Applicability; description of the iron ore subcategory.
440.11 [Reserved]
440.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

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440.20 Applicability; description of the base and precious metals subcategory.
440.21 [Reserved]
440.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Aluminum Ore Subcategory

440.30 Applicability; description of the aluminum ore subcategory.
440.31 [Reserved]
440.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D—Ferroalloy Ores Subcategory

440.40 Applicability; description of the ferroalloy ores subcategory.
440.41 [Reserved]
440.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart E—Uranium, Radium and Vanadium Ores Subcategory

440.50 Applicability; description of the uranium, radium and vanadium ores subcategory.
440.51 [Reserved]
440.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F—Mercury Ores Subcategory

440.60 Applicability; description of the mercury ores subcategory.
440.61 [Reserved]
440.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart G—Titanium Ore Subcategory

440.70 Applicability; description of the titanium ore subcategory.
440.71 [Reserved]

Sec.
440.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart H—General Provisions and Definitions

440.80 Applicability.
440.81 General provisions
440.82 General definitions.

AUTHORITY: Secs. 301 and 304(b), Federal Water Pollution Control Act, as amended 33 U.S.C 1311 and 1314(b).

SOURCE: 43 FR 29774, July 11, 1978.

Subpart A—Iron Ore Subcategory

§ 440.10 Applicability; description of the iron ore subcategory.

The provisions of this subpart are applicable to discharges from: (a) Mines operated to obtain iron ore, regardless of the type of ore or its mode of occurrence; (b) mills beneficiating iron ores by physical (magnetic and non-magnetic) and/or chemical separation and (c) mills beneficiating iron ores by magnetic and physical separation (Mesabi Range).

§ 440.11 [Reserved]

§ 440.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to Subpart H—General Provisions and Definitions, the following limitations establish the concentrations of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines operated to obtain iron ore shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Fe (dissolved)	2.0	1.0

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(2) The concentration of pollutants discharged from mills that employ physical (magnetic and nonmagnetic) and/or chemical methods to beneficiate iron ore shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Fe (dissolved)	2.0	1.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(3) There shall be no discharge of process waste water from mills that employ magnetic and physical methods to beneficiate iron ore (Mesabi Range) except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(1) of this section.

Subpart B—Base and Precious Metals Subcategory

§ 440.20 Applicability; description of the base and precious metals subcategory.

The provisions of this subpart are applicable to discharges from: (a) Mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores, or silver bearing ores or any combination of these ores from open-pit or underground operations other than placer deposits; (b) mills which employ the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper ores, lead ores, zinc ores, gold ores or silver ores or any combination of these ores; (c) mines and mills which employ dump, heap, in situ leach or vat-leach processes for the extraction of copper from ores or ore waste materials; (d) mills which extract gold or silver by the cyanidation process alone; (e) mills which extract gold or silver by the amalgamation process alone; and (f) mines or mines and mills beneficiating gold ores, silver ores, tin ores or platinum ores by gravity separation methods, (this includes placer or dredge mining or concentrating operations, and hydraulic mining operations).

§ 440.21 [Reserved]

§ 440.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores, or silver bearing ores or any combination of these ores from open-pit or underground operations other than placer deposits shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Cu	.30	.15
Zn	1.5	.75
Pb	.6	.3
Hg	.002	.001
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(2) The concentration of pollutants discharged from mills which employ the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper ores, lead ores, zinc ores, gold ores, or silver ores or any combination of these ores shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Cu	.30	.15
Zn	1.0	.5
Pb	.6	.3
Hg	.002	.001
Cd	.10	.05
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(3) There shall be no discharge of process waste water from mines and mills which employ dump, heap, in situ leach or vat-leach processes for the extraction of copper from ores or ore waste materials except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(2) of this section.

(4) There shall be no discharge of process waste water from mills which extract gold or silver by use of the cyanidation process alone except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(1) of this section.

(5) The concentration of pollutants from mills which extract gold or silver by use of the amalgamation process alone shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Cu	.30	.15
Zn	1.0	.5
Hg	.002	.001
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(6) The concentration of pollutants discharged in mine drainage from mines or discharged from mine and mill complexes beneficiating gold ores, silver ores or platinum ores by gravity separation methods including mining of placer deposits, dredge mining and hydraulic mining operations shall not exceed:

[Reserved]

[43 FR 29774, July 11, 1978, as amended at 44 FR 11547, Mar. 1, 1979]

Subpart C—Aluminum Ore Subcategory

§ 440.30 Applicability; description of the aluminum ore subcategory.

The provisions of this subpart are applicable to discharges from facilities engaged in the mining of bauxite as an aluminum ore.

§ 440.31 [Reserved]

§ 440.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section, which may be discharged by a point source after application of the best practicable control technology currently available:

The concentration of pollutants discharged in mine drainage from mines producing bauxite ores shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Fe	1.0	.5
Al	2.0	1.0
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

Subpart D—Ferroalloy Ores Subcategory

§ 440.40 Applicability; description of the ferroalloy ores subcategory.

The provisions of this subpart are applicable to discharges from: (a) Mines producing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year; (b) mines producing less than 5,000 metric tons (5,512 short tons) and mills processing less than 5,000 metric tons (5,512 short tons) of ferroalloy ores per year by methods other than ore leaching; (c) mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by purely physical methods including ore crushing, washing, jigging, heavy media and gravity separation, and magnetic and electrostatic separation; and (d) mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by froth flotation methods. Ferroalloy metals include: chromium, cobalt, columbium, tantalum, manganese, molybdenum, nickel, tungsten and vanadium (recovered alone and not as a by-product of uranium mining and mills).

§ 440.41 [Reserved]

§ 440.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H-General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines producing 5,000 metric tons (5,512 short tons) or more of ferroalloy bearing ores per year shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Cd	.10	.05
Cu	.3	.15
Zn	1.0	.5
Pb	.6	.3
As	1.0	.5
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

(2) The concentration of pollutants discharged in mine drainage from mines producing less than 5,000 metric tons (5,512 short tons) or discharged from mills processing less than 5,000 metric tons (5,512 short tons) of ferroalloy ores per year by methods other than ore leaching shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	50	30
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

(3) The concentration of pollutants discharged from mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by purely

physical methods including ore crushing, washing, jigging, heavy media separation, and magnetic and electrostatic separation shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Cd	.10	.05
Cu	.30	.15
Zn	1.0	.5
As	1.0	.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(4) The concentration of pollutants discharged from mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by froth flotation methods shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Cd	.10	.05
Cu	.30	.15
Zn	1.0	.5
As	1.0	.5
CN	.20	.10
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart E—Uranium, Radium and Vanadium Ores Subcategory

§ 440.50 Applicability; description of the uranium, radium and vanadium ores subcategory.

The provisions of this subpart are applicable to discharges from: (a) Mines, either open-pit or underground, from which uranium, radium and vanadium ore are produced; and (b) mills using the acid leach, alkaline leach, or combined acid and alkaline leach process for the extraction of uranium, radium and vanadium. Only vanadium by-product production from uranium ores is covered under this subpart.

§ 440.51 [Reserved]

§ 440.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines, either open-pit or underground, from which uranium, radium and vanadium ores are produced excluding mines using in-situ leach methods shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
COD	200	100
Zn	1.0	0.5
Ra226 [1] (dissolved)	10	3
Ra226 [1] (total)	30	10
U	4	2
pH	(2)	(2)

[1] Values in picocuries per liter (pCi/l).
[2] Within the range 6.0 to 9.0.

(2) The concentrations of pollutants discharged from mills using the acid leach, alkaline leach or combined acid and alkaline leach process for the extraction of uranium, radium and vanadium including mill-mine facilities and mines using in-situ leach methods shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
COD		500
As	1.0	.5
Zn	1.0	.5
Ra226 [1] (dissolved)	10	3
Ra226 [1] (total)	30	10
NH3		100

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
pH	(²)	(²)

[1] Values in picocuries per liter (pCi/l).
[2] Within the range 6.0 to 9.0.

Subpart F—Mercury Ore Subcategory

§ 440.60 Applicability; description of the mercury ore subcategory.

The provisions of this subpart are applicable to discharges from: (a) Mines, either open-pit or underground, operated for the production of mercury ores; and (b) mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods.

§ 440.61 [Reserved]

§ 440.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source subpart after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines, either open-pit or underground, operated for the production of mercury ores shall not exceed the following limitations:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Hg	.002	.001
Ni	.2	.1
pH	(¹)	(¹)

[1] Within the range 6.0 to 9.0.

(2) There shall be no discharge of process waste water from mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a)(1) of this section.

Subpart G—Titanium Ore Subcategory

§ 440.70 Applicability; description of the titanium ore subcategory.

The provisions of this subpart are applicable to discharges from: (a) Mines obtaining titanium ores from lode deposits; (b) mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods; and (c) mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, zircon, and other heavy metals, and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods).

§ 440.71 [Reserved]

§ 440.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Subject to the provisions of Subpart H—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(1) The concentration of pollutants discharged in mine drainage from mines obtaining titanium ores from lode deposits shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Fe	2.0	1.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(2) The concentration of pollutants discharged from mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Zn	1.0	.5
Ni	.2	.1
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(3) The concentration of pollutants discharged in mine drainage from mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, zircon, or other heavy metals, and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods) shall not exceed:

Effluent characteristics	Effluent limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	30	20
Fe	2	1
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart H—General Provisions and Definitions

§ 440.80 Applicability.

Except as provided in these general provisions and definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to Part 440. The general provisions and definitions set forth in this Subpart H apply to all subparts of the Part 440.

§ 440.81 General provisions.

(a) In establishing the limitations set forth in 40 CFR Part 440, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and established effluent limitations. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different factors. If fundamentally different factors are found to exist, the Regional Administrator or the State shall establish effluent limitations in the NPDES permit accordingly. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations or initiate proceedings to revise 40 CFR Part 440.

(b) In the event that waste streams from various subparts or segments of subparts in Part 440 are combined for treatment and discharge, the quantity or quality of each pollutant or pollutant property in the combined discharge that is subject to effluent limitations shall not exceed the quantity or quality of each pollutant or pollutant property that would have been discharged had each waste stream been treated separately. The discharge flow from a combined discharge shall not exceed the volume that would have been discharged had each waste stream been treated separately.

(c) Any excess water, resulting from rainfall or snowmelt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in 40 CFR Part 440.

(d) Where the application of neutralization and sedimentation treatment technology results in inability to comply with the pH limitations set forth, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the other effluent limitations in the permit will be achieved. In no case shall the pH of the final effluent exceed 9.5. In the case of a discharge into natural receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and approved water quality standards authorize such lower pH, the pH limitations for the discharge may be adjusted downward to the pH water quality criterion for the receiving waters provided the other effluent limitations for the discharge are met. In no case shall a pH limitation below 5.0 be permitted.

§ 440.82 General definitions.

(a) The term "active mining area" means a place where work or other activity related to the extraction, removal, or recovery of metal ore is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.

(b) The term "mine" means an active mining area, including all land and property placed upon, under or above the surface of such land, used in or resulting from the work of extracting metal ore from its natural deposits by any means or method, including secondary recovery of metal ore from refuse or other storage piles derived from the mining, cleaning, or concentration of metal ores.

(c) The term "mine drainage" means any water drained, pumped or siphoned from a mine.

(d) The term "ten year 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable re-occurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments, or equivalent regional or rainfall probability information developed therefrom.

(e) The term "mill" means a preparation facility within which the metal ore is cleaned, concentrated or otherwise processed prior to shipping to the consumer, refiner, smelter or manufacturer. A mill includes all ancillary operations and structures necessary for the cleaning, concentrating or other processing of the metal ore such as ore and gangue storage areas, and loading facilities.

(f) The terms "annual precipitation" and "annual evaporation" mean the mean annual precipitation and mean annual lake evaporation respectively, as defined in the publication, "Climatic Atlas of the United States", "U.S. Department of Commerce, Environmental Science Services Administration, Environmental Data Services, June 1968 or equivalent regional rainfall and evaporation data.

(g) The effluent characteristic "U" (Uranium) is measured by the procedure discussed in the "HASL Procedural Manual," edited by John H. Harley, HASL 300 Health and Safety Laboratory, U.S. Atomic Energy Commission, 1973, pg. EU-03, or an equivalent method.

PART 443—EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE PAVING AND ROOFING MATERIALS (TARS AND ASPHALT) POINT SOURCE CATEGORY

Subpart A—Asphalt Emulsion Subcategory

Sec.
443.10 Applicability; description of the asphalt emulsion subcategory.
443.11 Specialized definitions.
443.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
443.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
443.14 [Reserved]
443.15 Standards of performance for new sources.
443.16 Pretreatment standards for new sources.

Subpart B—Asphalt Concrete Subcategory

443.20 Applicability; description of the asphalt concrete subcategory.
443.21 Specialized definitions.
443.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
443.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
443.24 [Reserved]
443.25 Standards of performance for new sources.
443.26 Pretreatment standard for new sources.

Subpart C—Asphalt Roofing Subcategory

443.30 Applicability; description of the asphalt roofing subcategory.
443.31 Specialized definitions.
443.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
Sec.
443.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
443.34 [Reserved]
443.35 Standards of performance for new sources.
443.36 Pretreatment standard for new sources.

Subpart D—Linoleum and Printed Asphalt Felt Subcategory

443.40 Applicability; description of the linoleum and printed asphalt felt subcategory.
443.41 Specialized definitions.
443.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
443.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
443.44 [Reserved]
443.45 Standards of performance for new sources.
443.46 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c) and 307(c), Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), 1317(c), 86 Stat. 816 et seq.; Pub. L. 92-500.

SOURCE: 40 FR 31191, July 24, 1975, unless otherwise noted.

Subpart A—Asphalt Emulsion Subcategory

§ 443.10 Applicability; description of the asphalt emulsion subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of asphalt paving and roofing emulsions.

§ 443.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "production area size" shall mean that area in which the oxidation towers, loading facilities, and all buildings that house product processes are located.

(c) The term "process wastewater pollutants" shall mean any pollutants present in the process wastewaters and rainwater runoff.

§ 443.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/cu m of runoff)	
Oil and grease	0.020	0.015
pH	(1)	(1)
	English units (lb/1,000 gal of runoff)	
Oil and grease	0.167	0.125
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 443.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/cu m of runoff)	
TSS	0.023	0.015
Oil and grease	0.015	0.010
pH	(1)	(1)
	English units (lb/1,000 gal of runoff)	
TSS	0.188	0.125

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Oil and grease	0.125	0.063
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 443.14 [Reserved]

§ 443.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/cu m of runoff)	
TSS	0.023	0.015
Oil and grease	0.015	0.010
pH	(1)	(1)
	English units (lb/1,000 gal of runoff)	
TSS	0.188	0.125
Oil and grease	0.125	0.083
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 443.16 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the asphalt emulsion subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
pH	Do.
Oil and grease	100 mg/l.

Subpart B—Asphalt Concrete Subcategory

§ 443.20 Applicability; description of the asphalt concrete subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of asphalt concrete.

§ 443.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" shall mean any water which, during the manufacturing process, comes into direct contact with any raw material, intermediate product, by-product, or product used in or resulting from the production of paving asphalt concrete.

(c) The term "process wastewater pollutants" shall mean any pollutants present in the process wastewater.

§ 443.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 443.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process wastewater pollutants to navigable waters.

§ 443.25 [Reserved]

§ 443.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process wastewater pollutants to navigable waters.

§ 443.26 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the asphalt concrete subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
pH	Do.
Oil and grease	100 mg/l.

Subpart C—Asphalt Roofing Subcategory

§ 443.30 Applicability; description of the asphalt roofing subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of Asphalt Roofing materials.

§ 443.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" shall mean any water which, during the manufacturing process, comes into direct contact with any raw material, intermediate product, by-product, or product used in or resulting from the production of asphalt roofing materials.

(c) The term "process wastewater pollutants" shall mean any pollutants present in the process wastewater.

§ 443.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.056	0.038
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
TSS	0.056	0.038
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 443.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.028	0.019
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
TSS	0.028	0.019
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 443.34 [Reserved]

§ 443.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.028	0.019
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
TSS	0.028	0.019
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 443.36 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the asphalt roofing subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
pH	Do.
Oil and grease	100 mg/l.

Subpart D—Linoleum and Printed Asphalt Felt Subcategory

§ 443.40 Applicability; description of the linoleum and printed asphalt felt subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of Linoleum and Printed Asphalt Felt floor coverings.

§ 443.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" shall mean any water which, during the manufacturing process, comes into direct contact with any raw material, intermediate product, by-product, or product used in or resulting from the production of linoleum and printed asphalt felt floor coverings.

(c) The term "process wastewater pollutants" shall mean any pollutants present in the process wastewater.

§ 443.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.038	0.025
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
TSS	0.038	0.025
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 443.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
TSS	0.019	0.013
pH	(¹)	(¹)
	English units (lb/1,000 lb of product)	
TSS	0.019	0.013
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

§ 443.44 [Reserved]

§ 443.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
pH	(1)	(1)
	English units (lb/1,000 lb of product)	
TSS	0.019	0.013
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 443.46 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the linoleum and printed asphalt felt subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard
BOD5	No limitation.
TSS	Do.
pH	Do.
Oil and grease	100 mg/l.

PART 446—PAINT FORMULATING POINT SOURCE CATEGORY

Subpart A—Oil-Base Solvent Wash Paint Subcategory

Sec.
446.10 Applicability; description of the oil-base solvent wash paint subcategory.
446.11 Specialized definitions.
446.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
446.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
446.14 [Reserved]
446.15 Standards of performance for new sources.
446.16 Pretreatment standard for new sources.

AUTHORITY: Secs. 301, 304(b) and (c), 306(b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

SOURCE: 40 FR 31725, July 28, 1975, unless otherwise noted.

Subpart A—Oil-Base Solvent Wash Paint Subcategory

§ 446.10 Applicability; description of the oil-base solvent wash paint subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of oil-base paint where the tank cleaning is performed using solvents. When a plant is subject to effluent limitations covering more than one subcategory the discharge limitation shall be the aggregate of the limitations applicable to the total production covered in each subcategory.

§ 446.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 446.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluents levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.14 [Reserved]

§ 446.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.16 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the oil-base solvent wash paint subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart: There shall be no discharge of process water pollutants to a publicly owned treatment works.

PART 447—INK FORMULATING POINT SOURCE CATEGORY

Subpart A—Oil-Base Solvent Wash Ink Subcategory

Sec.
447.10 Applicability; description of the oil-base solvent wash ink subcategory.
447.11 Specialized definitions.
447.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
447.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
447.14 [Reserved]
447.15 Standards of performance for new sources.
447.16 Pretreatment standard for new sources.

Authority: Secs. 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

Source: 40 FR 31727, July 28, 1975, unless otherwise noted.

Subpart A—Oil-Base Solvent Wash Ink Subcategory

§ 447.10 Applicability; description of the oil-base solvent wash ink subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of oil-base ink where the tank washing system uses solvents. When a plant is subject to effluent limitations covering more than one subcategory the discharge limitation shall be the aggregate of the limitations applicable to the total production covered in each subcategory.

§ 447.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 447.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency.

The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.14 [Reserved]

§ 447.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.16 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the oil-base solvent wash ink subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart: There shall be no discharge of process water pollutants to a publicly owned treatment works.

PART 454—GUM AND WOOD CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Char and Charcoal Briquets Subcategory

Sec.

454.10 Applicability; description of the manufacture of char and charcoal briquets subcategory.
454.11 Specialized definitions.
454.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—Gum Rosin and Turpentine Subcategory

454.20 Applicability; description of the manufacture of gum rosin and turpentine subcategory.
454.21 Specialized definitions.
454.22 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Wood Rosin, Turpentine and Pine Oil Subcategory

454.30 Applicability; description of the manufacture of wood rosin, turpentine and pine oil subcategory.
454.31 Specialized definitions.
454.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D—Tall Oil Rosin, Pitch and Fatty Acids Subcategory

454.40 Applicability; description of the manufacture of tall oil rosin, pitch and fatty acids subcategory.
454.41 Specialized definitions.

Sec.
454.42 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart E—Essential Oils Subcategory

454.50 Applicability; description of the essential oils subcategory.
454.51 Specialized definitions.
454.52 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F—Rosin-Based Derivatives Subcategory

454.60 Applicability; description of manufacture of rosin-based derivatives subcategory.
454.61 Specialized definitions.
454.62 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304(b) and (c), 306(b), 307(b) and (c), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and 1317(b) and (c), 86 Stat. 816 et. seq.; Pub. L. 92-500) (the Act).

SOURCE: 41 FR 20511, May 18, 1976, unless otherwise noted.

Subpart A—Char and Charcoal Briquets Subcategory

§ 454.10 Applicability; description of the manufacture of char and charcoal briquets subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of char and charcoal briquets.

§ 454.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean char and charcoal briquets.

§ 454.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of char and charcoal briquets by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart B—Gum Rosin and Turpentine Subcategory

§ 454.20 Applicability; description of the manufacture of gum rosin and turpentine subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of gum rosin and turpentine.

§ 454.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean gum rosin and turpentine.

§ 454.22 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of gum rosin and turpentine by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
BOD*5*	1.42	0.755
TSS	0.077	0.026
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

Subpart C—Wood Rosin, Turpentine and Pine Oil Subcategory

§ 454.30 Applicability; description of the manufacture of wood rosin, turpentine and pine oil subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of wood rosin, turpentine and pine oil subcategory.

§ 454.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean products from wood rosin, turpentine and pine oil.

§ 454.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of wood rosin, turpentine and pine oil by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
BOD5	2.08	1.10
TSS	1.38	0.475
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

Subpart D—Tall Oil Rosin, Pitch and Fatty Acids Subcategory

§ 454.40 Applicability; description of manufacture of tall oil rosin, pitch and fatty acids subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of tall oil rosin, pitch and fatty acids.

§ 454.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean tall oil rosin, pitch and fatty acids.

§ 454.42 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger, effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of tall oil rosin, pitch and fatty acids by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
BOD5	0.995	0.529
TSS	0.705	0.243
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart E—Essential Oils Subcategory

§ 454.50 Applicability; description of the essential oils subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of essential oils.

§ 454.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean essential oils.

§ 454.52 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of essential oils by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
BOD5	22.7	12.0
TSS	9.01	3.11
pH	(1)	(1)

(1) Within the range 6.0 to 9.0.

Subpart F—Rosin-Based Derivatives Subcategory

§ 454.60 Applicability; description of manufacture of rosin-based derivatives subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of rosin-based derivatives.

§ 454.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean rosin-based derivatives.

§ 454.62 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interest-

ed person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of rosin-based derivatives by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
BOD5	1.41	0.748
TSS	0.045	0.015
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

PART 455—PESTICIDE CHEMICALS

Sec.
455.10 General definitions.

Subpart A—Organic Pesticide Chemicals Manufacturing Subcatgory

455.20 Applicability; description of the organic pesticide chemicals manufacturing subcategory
455.21 Specialized definitions.
455.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—Metallo-Organic Pesticide Chemicals Manufacturing Subcategory

455.30 Applicability; description of the metallo-organic pesticide chemicals manufacturing subcategory.
455.31 Specialized definitions.
455.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Pesticide Chemicals Formulating and Packaging Subcategory

455.40 Applicability; description of the pesticide chemicals formulating and packaging subcategory.
455.41 Specialized definitions. [Reserved]
455.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301 and 304, Federal Water Pollution Control Act, as amended (33 U.S.C. 1311, 1314, 86 Stat. 816 et seq. ("the Act").

SOURCE: 43 FR 17776, Apr. 25, 1978, unless otherwise noted.

§ 455.10 General definitions.

As used in this part:

(a)(1) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

(b) "Active ingredient" means an ingredient of a pesticide which is intended to prevent, destroy, repel, or mitigate any pest.

(c) "Pesticide chemicals" means the sum of all active ingredients manufactured at each facility covered by this part.

(d) "Pest" means: (1) Any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except virusus, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1) of Pub. L. 94-140, Federal Insecticide, Fungicide and Rodenticide Act.

(e) Except as provided in this regulation, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this part.

Subpart A—Organic Pesticide Chemicals Manufacturing Subcategory

SOURCE: 43 FR 44846, Sept. 29, 1978, unless otherwise noted.

§ 455.20 Applicability; description of the organic pesticide chemicals manufacturing subcategory.

(a) For the purpose of calculating effluent limitations for COD, BOD5, and TSS, the provisions of this subpart are applicable to discharges resulting from the manufacture of organic active ingredients, excluding the following: Allethrin, Benzyl Benzoate, Biphenyl, Bisethylxanthogen, Chlorophacinone, Coumafuryl, Dimethyl Phthalate, Diphacinone, Endothall Acid, EXD (Herbisan), Gibberellic Acid, Glyphosate, Methoprene, Naphthalene Acetic Acid, Phenylphenol, Piperonyl Butoxide, Propargite, 1,8 Naphthalic Anhydride, Quinomethionate, Resmethrin, Rotenone, Sulfoxide, Sodium Phenylphenate, Triazine compounds (both symmetrical and asymmetrical), and Warfarin and similar anticoagulants.

(b) For the purpose of calculating effluent limitations for organic pesticide chemicals, the provisions of this subpart are applicable to discharges resulting from the manufacture of the following organic active ingredients: Aldrin, BHC, Captan, Chlordane, DDD, DDE, DDT, Dichloran, Dieldrin, Endosulfan, Endrin, Heptachlor, Lindane, Methoxychlor, Mirex, PCNB, Toxaphene, Trifluralin, Azinphos Methyl, Demeton-O, Demeton-S, Diazinon, Disulfoton, Malathion, Parathion Methyl, Parathion Ethyl, Aminocarb, Carbaryl, Methiocarb, Mexacarbate, Propoxur, Barban, Chlorpropham, Diuron, Fenuron, Fenuron-TCA, Linuron, Monuron, Monuron-TCA, Neburon, Propham, Swep, 2,4-D, Dicamba, Silvex, 2,4,5-T, Siduron, Perthane, and Dicofol.

(c) The intermediates used to manufacture the active ingredients and active ingredients used solely in experimental pesticides are excluded from coverage in this subpart. Insecticidal pathogenic organisms such as Bacillus thuringiensis, insect growth hormones, plant extracts such as pyrethrins; sex attractants and botanicals such as Rotenone are also excluded from coverage in this subpart.

§ 455.21 Specialized definitions.

(a) "Organic active ingredients" means carbon-containing active ingredients used in pesticides, excluding metalloorganic active ingredients.

(b) "Total organic active ingredients" means the sum of all organic active ingredients covered by § 455.20(a) which are manufactured at a facility subject to this subpart.

(c) "Organic pesticide chemicals" means the sum of all organic active ingredients listed in § 455.20(b) which are manufactured at a facility subject to this subpart.

§ 455.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitation set forth in this section, EPA took into account all information it was able to collect, develop, and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements, and costs) which can affect the industry subcategorization and effluent levels established. It is possible, however, that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this paragraph which may be discharged from the manufacture of organic active ingredient by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available.

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
COD	13.000	9.0000
BOD	7.400	1.6000
TSS	6.100	1.8000
Organic pesticide chemicals	.010	.0018
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

NOTE—For COD, BOD5, and TSS, metric units: Kilogram/1,000 kg of total organic active ingredients. English units: Pound/1,000 lb of total organic active ingredients. For organic pesticide chemicals—metric units: Kilogram/1,000 kg of organic pesticide chemicals. English units: Pound/1,000 lb of organic pesticide chemicals.

Subpart B—Metallo-Organic Pesticide Chemicals Manufacturing Subcategory

§ 455.30 Applicability; description of the metallo-organic pesticide chemicals manufacturing subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of metallo-organic active ingredients containing mercury, cadmium, arsenic, or copper. The manufacture of intermediates used to manufacture the active ingredients are excluded from coverage by this subpart.

§ 455.31 Specialized definitions.

(a) "Metallo-organic active ingredients" means carbon containing active ingredients containing one or more metallic atoms in the structure.

§ 455.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is possible, however, that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this paragraph which may be discharged from the manufacture of metallo-organic active ingredients by a point source subject to the provisions of this paragrah after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

Subpart C—Pesticide Chemicals Formulating and Packaging Subcategory

§ 455.40 Applicability; description of the pesticide chemicals formulating and packaging subcategory.

The provisions of this subpart are applicable to discharges resulting from all pesticide formulating and packaging operations.

§ 455.41 Specialized definitions [Reserved]

§ 455.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is possible, however, that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this paragraph from the formulation and packaging of pesticides by a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

PART 457—EXPLOSIVES MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Manufacture of Explosives Subcategory

Sec.
457.10 Applicability; description of the commercial manufacture of explosives subcategory.
457.11 Specialized definitions.
457.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—[Reserved]

Subpart C—Explosives Load, Assemble, and Pack Plants Subcategory

457.30 Applicability; description of the commercial explosives load, assemble and pack plants subcategory.
457.31 Specialized definitions.
457.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304(b) and (c), 306(b), 307(b) and (c), Federal Water Pollution Control Acts, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and 1317(b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

SOURCE: 41 FR 10184, Mar. 9, 1976, unless otherwise noted.

Subpart A—Manufacture of Explosives Subcategory

§ 457.10 Applicability; description of the commercial manufacture of explosives subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of explosives.

§ 457.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean dynamite, nitroglycerin, cyclotrimethylene trinitramine (RDX), cyclotetramethylene tetranitramine (HMX), and trinitrotoluene (TNT).

§ 457.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, FPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products, produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of explosives by a point source subject to the provisions of this paragraph after application of the best practical control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
COD	7.77	2.59
BOD5	0.72	0.24
TSS	0.25	0.084
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

Subpart B—[Reserved]

Subpart C—Explosives Load, Assemble, and Pack Plants Subcategory

§ 457.30 Applicability; description of the commercial explosives load, assemble and pack plants subcategory.

The provisions of this subpart are applicable to discharges resulting from explosives load, assemble and pack plants.

§ 457.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean products from plants which blend explosives and market a final product, and plants that fill shells and blasting caps. Examples of such installations would be plants manufacturing ammonium nitrate and fuel oil (ANFO), nitrocarbonitrate (NCN), slurries, water gels, and shells.

§ 457.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the explosives load, assemble and pack plants by a point source subject to the provisions of this paragraph after application of the best practical control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
O&G	0.11	0.035
TSS	0.26	0.088
pH	([1])	([1])

[1] Within the range 6.0 to 9.0.

PART 458—CARBON BLACK MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Carbon Black Furnace Process Subcategory

Sec.
458.10 Applicability; description of the carbon black furnace process subcategory.
458.11 Specialized definitions.
458.12 [Reserved]
458.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
458.14 [Reserved]
458.15 Standards of performance for new sources.
458.16 Pretreatment standards for new sources.

Subpart B—Carbon Black Thermal Process Subcategory

458.20 Applicability; description of the carbon black thermal process subcategory.
458.21 Specialized definitions.
458.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
458.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
Sec.
458.24 [Reserved]
458.25 Standards of performance for new sources.
458.26 Pretreatment standards for new sources.

Subpart C—Carbon Black Channel Process Subcategory

458.30 Applicability; description of the carbon black channel process subcategory.
458.31 Specialized definitions.
458.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
458.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
458.34 [Reserved]
458.35 Standards of performance for new sources.
458.36 Pretreatment standards for new sources.

Subpart D—Carbon Black Lamp Process Subcategory

458.40 Applicability; description of the carbon black lamp process subcategory.
458.41 Specialized definitions.
458.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
458.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
458.44 [Reserved]
458.45 Standards of performance for new sources.
458.46 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304 (b) and (c), 306(b), 307 (b) and (c), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

SOURCE: 43 FR 1343, Jan. 9, 1978, unless otherwise noted.

Subpart A—Carbon Black Furnace Process Subcategory

§ 458.10 Applicability; description of the carbon black furnace process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the furnace process.

§ 458.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the furnace process.

(c) The term "process waste water" shall mean waters which result from baghouse operations or thermal quench operations.

§ 458.12 [Reserved]

§ 458.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black furnace process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.14 [Reserved]

§ 458.15 Standards of performance for new sources

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black furnace process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.16 Pretreatment standards for new sources

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black furnace process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property—Oil and grease.

Pretreatment standard—100 mg/l.

Subpart B—Carbon Black Thermal Process Subcategory

§ 458.20 Applicability: description of the carbon black thermal process subcategory

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the thermal process.

§ 458.21 Specialized definitions

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the thermal process.

(c) The term "process waste water" shall mean waters which result from baghouse operations or thermal quench operations.

§ 458.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the thermal process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

§ 458.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph which may be discharged from the carbon black thermal process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.24 [Reserved]

§ 458.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black thermal process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.26 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black thermal process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property—Oil and grease.
Pretreatment standard—100 mg/l.

Subpart C—Carbon Black Channel Process Subcategory

§ 458.30 Applicability; description of the carbon black channel process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the channel process.

§ 458.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the channel process.

§ 458.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop, and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the channel process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

§ 458.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black channel process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.34 [Reserved]

§ 458.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black channel process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.36 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black channel process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property—Oil and grease.
Pretreatment standard—100 mg/l.

Subpart D—Carbon Black Lamp Process Subcategory

§ 458.40 Applicability; description of the carbon black lamp process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the lamp process.

§ 458.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the lamp process.

§ 458.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the

Environmental Protection Agency. The Administator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the lamp process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

§ 458.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black lamp process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.44 [Reserved]

§ 458.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black lamp process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.46 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black lamp process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property—Oil and grease.
Pretreatment standard—100 mg/l.

PART 459—PHOTOGRAPHIC POINT SOURCE CATEGORY

Subpart A—Photographic Processing Subcategory

Sec.
459.10 Applicability; description of the photographic processing subcategory.
459.11 Specialized definitions.
459.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304 (b), (c), 306(b), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c) and 1316(b), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

SOURCE: 41 FR 29079, July 14, 1976, unless otherwise noted.

Subpart A—Photographic Processing Subcategory

§ 459.10 Applicability; description of the photographic processing subcategory.

The provisions of this subpart are applicable to point source discharges resulting from the development or printing of paper prints, slides, negatives, enlargements, movie film, and other sensitized materials except that facilities processing 150 sq. meters (1600 sq. feet) per day or less are not covered. Both commercial and military facilities are covered by this subpart.

§ 459.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean articles developed or printed by photographic processes, such as paper prints, slides, negatives, enlargements, movie film and other sensitized materials.

§ 459.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment of facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from a photographic processing point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of product)	
Ag	0.14	0.07
CN	0.18	0.09
pH	(¹)	(¹)
	English units (pounds per 1,000 ft³ of product)	
Ag	0.030	0.015
CN	0.038	0.019
pH	(¹)	(¹)

¹Within the range 6.0 to 9.0.

PART 460—HOSPITAL POINT SOURCE CATEGORY

Subpart A—Hospital Category

Sec.
460.10 Applicability; description of the hospital category.
460.11 Specialized definitions.
460.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304 (b) and (c), 360(b), 307 (b) and (c), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317 (b) and (c), 86 Stat. 816 et. seq.; Pub. L. 92-500) (the Act).

SOURCE: 41 FR 18777, May 6, 1976, unless otherwise noted.

Subpart A—Hospital Category

§ 460.10 Applicability; description of the hospital category.

The provisions of this subpart are applicable to discharges resulting from the functional operations of the hospital point source category.

§ 460.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean service resulting from the hospital activity in terms of 1,000 occupied beds.

§ 460.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, processes, products produced, treatment technology available, energy requirements and costs) which can affect the categorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain waste treatment plants in this point source category. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the hospital point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/1,000 occupied beds)	
BOD5	41.0	33.6
TSS	55.6	33.8
pH	(1)	(1)
	English units (lb/1,000 occupied beds)	
BOD5	90.4	74.0
TSS	122.4	74.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

SUBCHAPTERS O—P [RESERVED]

SUBCHAPTER Q—ENERGY POLICY

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Subpart A—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—General Provisions

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600.002-81 Definitions.
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600.004-77 Section numbering, construction.
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600.006-77 Data to be submitted.
600.006-81 Data to be submitted.
600.006-82 Data and information requirements for fuel economy vehicles.
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Subpart B—Fuel Economy Regulations for 1978 and Later Model Year Automobiles—Test Procedures

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Subpart C—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Procedures for Calculating Fuel Economy Values

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600.206-81 Calculation of fuel economy values for gasoline-fueled, diesel, and electric vehicle configurations.
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600.307-8 Format and contents of labels.
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600.316-78 Multistage manufacturer.

Subpart E—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Dealer Availability of Fuel Economy Information

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600.403-77 Abbreviations.
600.404-77 Section numbering, construction.
600.405-77 Dealer requirements.
600.406-77 [Reserved]
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Subpart F—Fuel Economy Regulations for Model Year 1978 Passenger Automobiles and for 1979 and Later Model Year Automobiles (Light Trucks and Passenger Automobiles)—Procedures for Determining Manufacturer's Average Fuel Economy

Sec.
600.501-79 General applicability.
600.501-81 General applicability.
600.502-79 Definitions.
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APPENDIX VI—1979 MODEL YEAR FUEL ECONOMY LABEL FORMAT

AUTHORITY: 15 U.S.C. 2003.

SOURCE: 41 FR 38685, Sept. 10, 1976, unless otherwise noted.

Subpart A—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—General Provisions

§ 600.001-77 General applicability.

The provisions of this subpart are applicable to 1977 and later model year automobiles. The requirements apply to all automobiles of the respective model year regardless of the date of production.

§ 600.001-81 General applicability.

The provisions of this subpart are applicable to 1981 and later model year automobiles. The requirements apply to all automobiles and of the respective model year regardless of the date of production.

Manufacturers who produce only electric vehicles are exempted from complying with provisions of this part pertaining to electric vehicles.

[45 FR 49258, July 24, 1980]

§ 600.002-80 Definitions.

(a) As used in this subpart all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part I of Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Secretary" means the Secretary of Transportation or his authorized representative.

(4) "Automobile" means any four-wheel vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 8,500 pounds gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(5) "Passenger automobile" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of no more than 10 individuals.

(6) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(7) "Federal Emission Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Part 86 for the respective model year, which are used to derive highway fuel economy data.

(8) "Federal Highway Fuel Economy Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Subpart B of this part and which are used to derive highway fuel economy data.

(9) "Fuel" means gasoline and diesel fuel.

(10) "Fuel economy" means the average number of miles traveled by an automobile or group of automobiles per gallon of gasoline or diesel fuel consumed as computed in § 600.113 or § 600.207.

(11) "City fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal Emission Test Procedure.

(12) "Highway fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal Highway Fuel Economy Test Procedure.

(13) "Combined fuel eEconomy" means the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively.

(14) "Average fuel economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that are subject to average fuel economy standards.

(15) "Certification vehicle" means a vehicle which is selected under § 86.080-24(b)(1) and used to determine compliance under § 86.079-30 for issuance of an original certificate of conformity.

(16) "Fuel Economy Data Vehicle" means a vehicle used for the purpose of determining fuel economy which is not a certification vehicle.

(17) "Label" means a sticker that contains fuel economy information and is affixed to new automobiles in accordance with Subpart D of this part.

(18) "Dealer" means a person who resides or is located in the United States, any territory of the United States or the District of Columbia and who is engaged in the sale or distribution of new automobiles to the ultimate purchaser.

(19) "Model type" means a unique combination of car line, basic engine, and transmission class.

(20) "Car line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passenger cars.

(21) "Basic engine" means a unique combination of manufacturer, engine displacement number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

(22) "Transmission class" means a group of transmissions having the following common features: Basic transmission type (manual, automatic, or semi-automatic), number of forward speeds (e.g., manual four-speed, three-speed automatic, two-speed semiautomatic), and other characteristics determined to be significant by the Administrator (e.g., "creeper" first gear, overdrive final gear ratio, or overdrive unit) considering factors such as the manufacturer's recommendation for use and/or the numerical gear ratios.

(23) "Base level" means a unique combination of basic engine inertia weight class and transmission class.

(24) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio (and, for light trucks only, two-wheel drive and four-wheel drive) within a base level.

(25) "Engine code" means a unique combination, within an engine-system combination (as defined in Part 86), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

(26) "Inertia weight class" means the class, which is a group of test weights, into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of Part 86.

(27) "Transmission configuration" means a unique combination, within a transmission class, of the number of forward gears, and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque converter multiplication ratio, stall speed, shift calibration, etc.) if he determines that significant fuel economy differences exist within that transmission configuration.

(28) "Axle ratio" means the number of times the input shaft to the differential (or equivalent) turns for each turn of the drive wheels.

(29) "Auxiliary Emission Control Devices (AECD)" means an element of design as defined in Part 86.

(30) "Rounded" means a number shortened to the specific number of decimal places in accordance with the "Round Off Method" specified in ASTM E 29-67.

(31) "Calibration" means the set of specifications, including tolerances, unique to a particular design, version or application of a component or component assembly capable of functionally describing its operation over its working range.

(32) "Production volume" means, for a domestic manufacturer, the number of vehicle units domestically produced in a particular model year but not exported, and for a foreign manufacturer, means the number of vehicle units of a particular model imported into the United States.

(33) "Body style" means a level of commonality in vehicle construction as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e. frontseat, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup truck" means a nonpassenger automobile which has a passenger compartment and an open cargo bed.

(36) "Station wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tailgate and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross vehicle weight rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate consumer" means the first person who purchases an automobile for purposes other than resale, or leases an automobile.

(39) "Van" means any light truck having an integral enclosure fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(40) "Base vehicle" means the lowest priced version of each body style that makes up a car line.

(41) "Nonpassenger automobile" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 49 CFR 523.5.

(42) "Four-wheel drive general utility vehicle" means a four-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase not more than 110 inches and that has a body shape similar to a 1977 Jeep CJ-5 or CJ-7, or the 1977 Toyota Land Cruiser, as defined by the Secretary of Transportation at 49 CFR 553.4.

(43) "Test weight" means the weight, within an inertia weight class, which is used in the dynamometer testing of a vehicle, and which is based on its loaded vehicle weight in accordance with the provisions of Part 86.

[42 FR 45656, Sept. 12, 1977, as amended at 42 FR 45924, Sept. 13, 1977; 43 FR 39372, Sept. 5, 1978; 43 FR 52928, Nov. 14, 1978]

§ 600.002-81 Definitions.

(a) As used in this subpart all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part I of Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Secretary" means the Secretary of Transportation or his authorized representative.

(4) "Automobile" means any four-wheel vehicle propelled by a combustion engine using onboard fuel or by an electric motor drawing current from rechargeable storage batteries or other portable energy storage devices (rechargeable using energy from a source off the vehicle such as residential electric service) which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails) and which is rated at 8,500 pounds gross vehicle weight or less or is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(5) "Passenger automobile" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of no more than 10 individuals.

(6) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(7) "Federal emission test procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Part 86 for the respective model year, which are used to derive city fuel economy data for gasoline-fueled or diesel vehicles.

(8) "Federal highway fuel economy test procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Subpart G of this part and which are used to derive highway fuel economy data for gasoline-fueled or diesel vehicles.

(9) "Fuel" means (i) gasoline and diesel fuel for gasoline- or diesel-powered automobiles or (ii) electrical energy for electrically powered automobiles.

(10) "Fuel economy" means (i) the average number of miles traveled by an automobile, or group of automobiles, per gallon of gasoline or diesel fuel, as computed in § 600.113 or § 600.207 or (ii) the equivalent petroleum based fuel economy for an electrically powered automobile as determined by the Secretary of Energy.

(11) "City fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal emission test procedure.

(12) "Highway fuel economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal highway fuel economy test procedure.

(13) "Combined fuel economy" means the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.55 and 0.45 respectively, for gasoline-fueled and diesel vehicles. For electric vehicles, the term means the equivalent petroleum-based fuel economy value as determined by the calculation procedure promulgated by the Secretary of Energy.

(14) "Average fuel economy" means the unique fuel economy value as compiled under § 600.510 for a specific class of automobiles produced by a manufacturer that are subject to average fuel economy standards.

(15) "Certification vehicle" means a vehicle which is selected under § 86.080-24(b)(1) and used to determine compliance under § 86.079-30 for issuance of an original certificate of conformity.

(16) "Fuel economy data vehicle" means a vehicle used for the purpose of determining fuel economy which is not a certification vehicle.

(17) "Label" means a sticker that contains fuel economy information and is affixed to new automobiles in accordance with Subpart D of this part.

(18) "Dealer" means a person who resides or is located in the United States, any territory of the United States, or the District of Columbia, and who is engaged in the sale or distribution of new automobiles to the ultimate purchaser.

(19) "Model type" means a unique combination of car line, basic engine, and transmission class.

(20) "Car line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics such as roof line, number of doors, seats, or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passenger cars.

(21) "Basic engine" for gasoline-fueled or diesel vehicles means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator. For electric vehicles, basic engine means a unique combination of manufacturer and electric traction motor, motor controller, battery configuration, electrical charging system, energy storage device, and other components as specified by the Administrator.

(22) "Transmission class" means a group of transmissions having the following common features: Basic transmission type (manual, automatic, or semi-automatic), number of forward speed (e.g., manual four-speed, three-speed automatic, two-speed semi-automatic), and other characteristics determined to be significant by the Administrator (e.g., "creeper" first gear, overdrive final gear ratio, or overdrive unit) considering factors such as the manufacturer's recommendation for use and/or the numerical gear ratios.

(23) "Base level" means a unique combination of basic engine inertia weight class and transmission class.

(24) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio (and, for light trucks only, two-wheel drive and four-wheel drive) within a base level.

(25) "Engine code" means, for gasoline-fueled and diesel vehicles, a unique combination, within an engine-system combination (as defined in Part 86 of this chapter), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices, and other engine and emission control system components specified by the Administrator. For electric vehicles, engine code means a unique combination of manufacturer, electric traction motor, motor configuration, motor controller, and energy storage device.

(26) "Inertia weight class" means the class, which is a group of test weights, into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of Part 86.

(27) "Transmission configuration" means a unique combination, within a transmission class, of the number of forward gears, and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque converter multiplication ratio, stall speed, shift calibration, etc.) if he determines that significant fuel economy differences exist within that transmission configuration.

(28) "Axle ratio" means the number of times the input shaft to the differential (or equivalent) turns for each turn of the drive wheels.

(29) "Auxiliary Emission Control Device (AECD)" means an element of design as defined in Part 86.

(30) "Rounded" means a number shortened to the specific number of decimal places in accordance with the "Round Off Method" specified in ASTM E 29-67.

(31) "Calibration" means the set of specifications, including tolerances, unique to a particular design, version of application of a component, or component assembly capable of functionally describing its operation over its working range.

(32) "Production volume" means, for a domestic manufacturer, the number of vehicle units domestically produced in a particular model year but not exported, and for a foreign manufacturer, means the number of vehicle units of a particular model imported into the United States.

(33) "Body style" means a level of commonality in vehicle construction as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e., front, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup truck" means a nonpassenger automobile which has a passenger compartment and an open cargo bed.

(36) "Station wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tailgate, and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross vehicle weight rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate consumer" means the first person who purchases an automobile for purposes other than resale or leases an automobile.

(39) "Van" means any light truck having an integral enclosure fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

(40) "Base vehicle" means the lowest priced version of each body style that makes up a car line.

(41) "Nonpassenger automobile" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 49 CFR 523.5.

(42) "Four-wheel-drive general utility vehicle" means a four-wheel-drive, general purpose automobile capable of off-highway operation that has a wheelbase of not more than 110 inches and that has a body shape similar to a 1977 Jeep CJ-5 or CJ-7, or the 1977 Toyota Land Cruiser, as defined by the Secretary of Transportation at 49 CFR 553.4.

(43) "Test weight" means the weight, within an inertia weight class, which is used in the dynamometer testing of a vehicle, and which is based on its loaded vehicle weight in accordance with the provisions of Part 86.

(44) "Secretary of Energy" means the Secretary of Energy or his authorized representative.

(45) "Electric traction motor" means an electrically powered motor which provides tractive energy to the wheels of a vehicle.

(46) "Energy storage device" means a rechargeable means of storing tractive energy on board a vehicle such as storage batteries or a flywheel.

(47) "Motor controller" means an electronic or electromechanical device to convert energy stored in an energy storage device into a form suitable to power the traction motor.

(48) "Electrical charging system" means a device to convert 60Hz alternating electric current, as commonly available in residential electric service in the United States, to a proper form for recharging the energy storage device.

(49) "Battery configuration" means the electrochemical type, voltage, capacity (in Watt-hours at the c/3 rate), and physical characteristics of the battery used as the tractive energy storage device.

[45 FR 49258, July 24, 1980]

§ 600.003-77 Abbreviations.

(a) The abbreviations used in this subpart have the same meaning as those in 40 CFR Part 86, with the addition of the following: "MPG" means miles per gallon. GVWR—Gross Vehicle Weight Rating.

[41 FR 38685, Sept. 10, 1976, as amended at 41 FR 49759, Nov. 10, 1976]

§ 600.004-77 Section numbering, construction.

The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section is effective until superseded.

EXAMPLE: Section 600.111-78 applies to the 1978 and subsequent model years until superseded. If a § 600.111-81 is promulgated it would take effect beginning with the 1981 model year; § 600.111-78 would apply to model years 1978 through 1980.

§ 600.005-77 Maintenance of records and right of entry.

The provisions of this section are applicable to all fuel economy data vehicles. Certification vehicles are required to meet the provisions of § 86.007-7.

(a) The manufacturer of any new motor vehicle subject to any of the standards or procedures prescribed in this part shall establish, maintain, and retain the following adequately organized and indexed records.

(1) *General records.* (i) Identification and description of all vehicles for which data are submitted to meet the requirements of this part.

(ii) A description of all procedures used to test each vehicle.

(iii) A copy of the information required to be submitted under § 600.006 fulfills the requirements of paragraph (a)(1)(i) of this section.

(2) *Individual records.* (i) A brief history of each vehicle for which data are submitted to meet the requirements of this part, in the form of a separate booklet or other document for each separate vehicle, in which must be recorded:

(A) The steps taken to ensure that the vehicle with respect to its engine, drive train, fuel system, emission control system components, exhaust after treatment device, vehicle weight, or any other device or component, as applicable, will be representative of production vehicles.

(B) A complete record of all emission tests performed under Part 86 and all fuel economy tests performed under Part 600 (except tests actually performed by EPA personnel), including all individual worksheets and other documentation relating to each such test, or exact copies thereof, the date, time, purpose, and location of each test, the number of miles accumulated on the vehicle when the tests began and ended, and the names of supervisory personnel responsible for the conduct of the tests.

(C) A description of mileage accumulated since selection or build-up of such vehicles including the date and times of each mileage accumulation listing both the mileage accumulated and the name of each driver, or each operator of the automatic mileage accumulation device, if applicable. Additionally, a description of mileage accumulated prior to selection or build-up of such vehicle must be maintained in such detail as is available.

(D) If used, the record of any devices employed to record the speed or mileage, or both, of the test vehicle in relationship to time.

(E) A record and description of all maintenance and other servicing performed, within 2,000 miles prior to fuel economy testing under this part, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service. A copy of the maintenance information to be submitted under § 600.006-77 fulfills the requirements of paragraph (a)(2)(i)(E) of this section.

(F) A brief description of any significent events affecting the vehicle during any time in the period covered by the history not described in an entry under one of the previous headings including such extraordinary events as vehicle accidents or driver speeding citations or warnings.

(3) The manufacturer shall retain all records required under this subpart for a period of five years after the end of the model year to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer, provided that in every case all the information contained in hard copy shall be retained.

(b) (1) Any manufacturer who has supplied fuel economy data to meet the requirements of this part shall admit any EPA Enforcement Officer during operating hours upon presentation of credentials at any of the following:

(i) Any facility where any fuel economy tests from which data are submitted or any procedures or activities connected with these tests are performed.

(ii) Any facility where any new motor vehicle which is being, was, or is to be tested is present.

(iii) Any facility where any construction process used in the modification or build-up of a vehicle into a fuel economy data vehicle is taking place or has taken place.

(iv) Any facility where any record or other document relating to any of the above is located.

(2) Upon admission to any facility referred to in paragraph (b)(1) of this section, the manufacturer shall allow any EPA Enforcement Officer:

(i) To inspect and monitor any part or aspect of procedures activities, and testing facilities, including, but not limited to, monitoring vehicle preconditioning, emission tests and fuel economy tests and mileage accumulation, maintenance, and vehicle soak and storage procedures; and to verify correlation of calibration of test equipment;

(ii) To inspect and make copies of any required records, designs, or other documents; and

(iii) To inspect and photograph any part or aspect of any fuel economy vehicle and any components to be used in the construction thereof.

(3) Any EPA Enforcement Officer will be furnished, by those in charge of a facility being inspected, with such reasonable assistance as may be required to help discharge any function listed in this paragraph (b). Each manufacturer is required to have those in charge of the facility furnish such reasonable assistance without charge to EPA whether or not the manufacturer controls the facility.

(4) The duty to admit any EPA Enforcement Officer shall be applicable whether or not the manufacturer owns or controls the facility in question and is applicable to both domestic and foreign manufacturers and facilities. An EPA Enforcement Officer will not attempt to make any inspections which the officer has been informed are in contravention of any law. However, if local law makes it impossible for the EPA Enforcement Officer to verify or to insure the accuracy of data generated at a facility such that no informed judgment can properly be made as to the accuracy or reliability of data generated by or obtained from the facility, then a vehicle or data from that vehicle shall not be accepted for use in Subparts C or F of this part (unless the Administrator is otherwise convinced of the accuracy and reliability of such data).

(5) For purposes of this paragraph (b):

(i) "Presentation of credentials" means display of the document designating a person as an EPA Enforcement Officer.

(ii) Where vehicle, component, or engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(iii) For facilities or areas other than those covered by paragraph (b)(5)(ii) of this section, the term, "operating hours" will mean all times during which an assembly line is in operation or all times during which testing, maintenance, mileage accumulation, production or compilation of records, or any other procedure or activity related to fuel economy testing, or to vehicle manufacture or assembly is being carried out in a facility.

(iv) "Reasonable assistance" means providing timely and unobstructed access to and opportunity for the copying of any record, book, paper, or document required to be maintained under this section and providing timely and unobstructed access to any motor vehicle, testing facility, or testing equipment.

(v) Any entry without 24 hours prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

[41 FR 49759, Nov. 10, 1976]

§ 600.005-81 Maintenance of records and rights of entry.

The provisions of this section are applicable to all fuel economy data vehicles. Certification vehicles are required to meet the provisions of § 86.007-77:

(a) The manufacturer of any new motor vehicle subject to any of the standards or procedures prescribed in this part shall establish, maintain, and retain the following adequately organized and indexed records:

(1) *General records.* (i) Identification and description of all vehicles for which data are submitted to meet the requirements of this part.

(ii) A description of all procedures used to test each vehicle.

(iii) A copy of the information required to be submitted under § 600.006 fulfills the requirements of paragraph (a)(1)(i) of this section.

(2) *Individual records.* (i) A brief history of each vehicle for which data are submitted to meet the requirements of this part, in the form of a separate booklet or other document for each seperate vehicles, in which must be recorded:

(A) The steps taken to ensure that the vehicle with respect to its engine, drive train, fuel system, emission control system components, exhaust after treatment device, vehicle weight, or any other device or component, as applicable, will be representative of production vehicles. In the case of electric vehicles, the manufacturer should describe the steps taken to ensure that the vehicle with respect to its electic traction motor, motor controller, battery configuration, or any other device or component, as applicable, will be representative of production vehicles.

(B) A complete record of all emission tests performed under Part 86, all fuel economy tests performed under Part 600 (except tests actually performed by EPA personnel), and all electic vehicle tests performed according to procedures promulgated by DOE, including all individual worksheets and other documentation relating to each such test or exact copies thereof; the date, time, purpose, and location of each test; the number of miles accumulated on the vehicle when the tests began and ended; and the names of supervisory personnel responsible for the conduct of the tests.

(C) A description of mileage accumulated since selection of buildup of such vehicles including the date and time of each mileage accumulation listing both the mileage accumulated and the name of each driver, or each operator of the automatic mileage accumulation device, if applicable. Additionally, a description of mileage accumulated prior to selection or buildup of such vechicle must be maintained in such detail as is available.

(D) If used, the record of any devices employed to record the speed of mileage, or both, of the test vehicle in relationship to time.

(E) A record and description of all maintenance and other servicing performed, within 2,000 miles prior to fuel economy testing under this part, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service. A copy of the maintenance information to be submitted under § 600,006-81 fulfills the requirements of this paragraph.

(F) A brief description of any significant events affecting the vehicle during any time of the period covered by the history not described in an entry under one of the previous headings including such extraordinary events as vehicle accidents or driver speeding citations or warnings.

(3) The manufacturer shall retain all records required under this subpart for a period of five years after the end of the model year to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer, provided that in every case all the information contained in hard copy shall be retained.

(b)(1) Any manufacturer who has supplied fuel economy data to meet the requirements of this part shall admit any EPA Enforcement Officer during operating hours upon presentation of credentials at any of the following:

(i) Any facility where any fuel economy tests from which data are submitted or any procedures or activities connected with these tests are performed.

(ii) Any facility where any new motor vehicle which is being, was, or is to be tested is present.

(iii) Any facility where any construction process used in the modification or buildup of a vehicle into a fuel economy data vehicle is taking place or has taken place.

(iv) Any facility where any record or other document relating to any of the above is located.

(2) Upon admission to any facility referred to in paragraph (b)(1) of this section, the manufacturer shall allow any EPA Enforcement Officer:

(i) To inspect and monitor any part or aspect of procedures, activities, and testing facilities, including, but not limited to, monitoring vehicle preconditioning; emission and fuel economy tests and mileage accumulation; maintenance; vehicle soak and storage procedures; and to verify correlation of calibration of test equipment;

(ii) To inspect and make copies of any required records, designs, or other documents; and

(iii) To inspect and photograph any part or aspect of any fuel economy vehicle and any components to be used in the construction thereof.

(3) Any EPA Enforcement Officer will be furnished, by those in charge of facility being inspected, with such reasonable assistance as may be required to help discharge any function listed in this paragraph (b). Each manufacturer is required to have those in charge of the facility furnish such reasonable assistance without charge to EPA whether or not the manufacturer controls the facility.

(4) The duty to admit any EPA Enforcement Officer shall be applicable whether or not the manufacturer owns or controls the facility in question and is applicable to both domestic and foreign manufacturers and facilities. An EPA Enforcement Officer will not attempt to make any inspections which the officer has been informed are in contravention of any law. However, if local law makes it impossible for the EPA Enforcement Officer to verify or to ensure the accuracy of data generated at a facility such that no informed judgment can properly be made as to the accuracy or reliability of data generated by or obtained for the facility, then a vehicle or data from that vehicle shall not be accepted for use in Subparts C or F of this part (unless the Administrator is otherwise convinced of the accuracy and reliability of such data).

(5) For purposes of this paragraph (b):

(i) "Presentation of credentials" means display of the document designating a person as an EPA Enforcement Officer.

(ii) Where vehicle, component, or engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(iii) For facilities or areas other than those covered by paragraph (b)(5)(ii) of this section, the term, "operating hours" will mean all times during which an assembly line is in operation or all times during which testing, maintenance, mileage accumulation, production or compilation of records, or any other procedure or activity related to fuel economy testing, or to vehicle manufacturer or assembly, is being carried out in a facility.

(iv) "Reasonable assistance" means providing timely and unobstructed access to and opportunity for the copying of any record, book, paper, or document required to be maintained under this section and providing timely and unobstructed access to any motor vehicle, testing facility, or testing equipment.

(v) Any entry without 24 hours prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

[45 FR 49259, July 24, 1980]

§ 600.006-77 Data to be submitted.

(a) For certification vehicles the requirements of this section are considered to have been met.

(b) The manufacturer shall submit the following information for each fuel economy data vehicle:

(1) A description of the vehicle, exhaust emission test results, applicable

deterioration factors, and adjusted exhaust emission levels.

(2) A statement of the origin of the vehicle including total mileage, mode of mileage accumulation, and modifications (if any) from the vehicle configuration in which the mileage was accumulated. (For modifications requiring advance approval by the Administrator, the name of the Administrator's representative approving the modification and date of approval are required.) If the vehicle was previously used for testing for compliance with Part 86 of this chapter or previously accepted by the Administrator as a fuel economy data vehicle in a different configuration, the requirements of this paragraph may be satisfied by reference to the vehicle number and previous configuration.

(3) A description of all maintenance to engine, emission control system or fuel system components performed within 2000 miles prior to fuel economy testing.

(4) A copy of calibrations for engine, fuel system, and emission control devices, showing the calibration of the actual components on the test vehicle as well as the design tolerances. (If calibrations for components were submitted previously as part of the description of another vehicle or configuration, the original submittal may be referenced.)

(5) A statement that the fuel economy data vehicle, with respect to which data are submitted:

(i) Has been tested in accordance with applicable test procedures,

(ii) Is, to the best of the manufacturer's knowledge, representative of the vehicle configuration listed, and

(iii) Is in compliance with applicable exhaust emission standards.

(c) The manufacturer shall submit the following fuel economy data:

(1) For each fuel economy data vehicle: All individual test results, including results of invalid and zero mile tests, and the harmonic average of all city fuel economy tests (except the results of invalid or zero mile tests) and the harmonic average fuel economy of all highway fuel economy tests (except the results of invalid or zero mile tests), conducted by the manufacturer.

(2) For a certification vehicle, as defined in this part and tested by the Administrator under Part 86 of this chapter: The city and highway fuel economy results from the test or tests on that vehicle.

(d) The manufacturer shall submit an indication of the intended purpose of the data (e.g., data required by the general labeling program or voluntarily submitted for specific labeling, etc.).

(e) In lieu of submitting actual data from a test vehicle, a manufacturer may provide fuel economy values derived from an analytical expression, e.g., regression analysis. In order for fuel economy values derived from analytical methods to be accepted, the expression (from and coefficients) must have been approved by the Administrator.

(f) If in conducting tests required or authorized by this part the manufacturer utilizes procedures, equipment, or facilities not described in the Application for Certification required in § 86.077-21, the manufacturer shall submit a description of such procedures, equipment, and facilities.

§ 600.006-81 Data to be submitted.

(a) For certification vehicles, the requirements of this section are considered to have been met.

(b) The manufacturer shall submit the following information for each fuel economy data vehicle:

(1) A description of the vehicle, exhaust emission test results, applicable deterioration factors, and adjusted exhaust emission levels.

(2) A statement of the origin of the vehicle including total mileage, mode of mileage accumulation, and modifications (if any) from the vehicle configuration in which the mileage was accumulated. (For modifications requiring advance approval by the Administrator, the name of the Administrator's representative approving the modification and date of approval are required.) If the vehicle was previously used for testing for compliance with Part 86 of this chapter or previously accepted by the Administrator as a fuel economy data vehicle in a different configuration, the requirements of

this paragraph may be satisfied by reference to the vehicle number and previous configuration.

(3) A description of all maintenance to engine, emission control system, or fuel system components performed within 2,000 miles prior to fuel economy testing. In the case of electric vehicles, the manufacturer should provide a description of all maintenance to electric motor, motor controller, battery configuration, or other components performed within 2,000 miles prior to fuel economy testing.

(4) A copy of calibrations for engine, fuel system, and emission control devices, showing the calibration of the actual components on the test vehicle as well as the design tolerances. In the case of electric vehicles, the manufacturer should provide a copy of calibrations for the electric motor, motor controller, battery configuration, or other components on the test vehicle as well as the design tolerances. (If calibrations for components were submitted previously as part of the description of another vehicle or configuration, the original submittal may be referenced.)

(5) A statement that the fuel economy data vehicle, with respect to which data are submitted:

(i) Has been tested in accordance with applicable test procedures,

(ii) Is, to the best of the manufacturer's knowledge, representative of the vehicle configuration listed, and

(iii) Is in compliance with applicable exhaust emission standards.

(c) The manufacturer shall submit the following fuel economy data:

(1) For each fuel economy data vehicle: All individual test results, including results of invalid and zero mile tests, and the harmonic average of all city fuel economy tests (except the results of invalid or zero-mile tests), conducted by the manufacturer.

(2) For a certification vehicle, as defined in this part and tested by the Administrator under Part 86 of this chapter: the city and highway fuel economy results from the test or tests on that vehicle.

(d) The manufacturer shall submit an indication of the intended purpose of the data (e.g., data required by the general labeling program or voluntarily submitted for specific labeling, etc.).

(e) In lieu of submitting actual data from a test vehicle, a manufacturer may provide fuel economy values derived from an analytical expression, e.g., regression analysis. In order for fuel economy values derived from analytical methods to be accepted, the expression (form and coefficients) must have been approved by the Administrator.

(f) If, in conducting tests required or authorized by this part, the manufacturer utilizes procedures, equipment, or facilities not described in the Application for Certification required in § 86.079-21, the manufacturer shall submit a description of such procedures, equipment, and facilities.

[45 FR 49261, July 24, 1980]

§ 600.006-82 Data and information requirements for fuel economy vehicles.

(a) For certification vehicles with less than 10,000 miles, the requirements of this section are considered to have been met except as noted in paragraph (c) of this section.

(b) The manufacture shall submit the following information for each fuel economy data vehicle:

(1) A description of the vehicle, exhaust emission test results, applicable deterioration factors, and adjusted exhaust emission levels.

(2) A statement of the origin of the vehicle including total mileage, mode of mileage accumulation, and modifications (if any) from the vehicle configuration in which the mileage was accumulated. (For modifications requiring advance approval by the Administrator, the name of the Administrator's representative approving the modification and date of approval are required.) If the vehicle was previously used for testing for compliance with Part 86 of this chapter or previously accepted by the Administrator as a fuel economy data vehicle in a different configuration, the requirements of this paragraph may be satisfied by reference to the vehicle number and previous configuration.

(3) A description of all maintenance to engine, emission control system, or fuel system components performed

within 2,000 miles prior to fuel economy testing. In the case of electric vehicles, the manufacturer should provide a description of all maintenance to electric motor controller, battery configuration, or other components performed within 2,000 miles prior to fuel economy testing.

(4) A copy of calibrations for engine, fuel system, and emission control devices, showing the calibration of the actual components on the test vehicle as well as the design tolerances. In the case of electric vehicles, the manufacturer should provide a copy of calibrations for the electric motor, motor controller, battery configuration, or other components on the test vehicle as well as the design tolerances. (If calibrations for components were submitted previously as part of the description of another vehicle or configuration, the original submittal may be referenced.)

(5) A statement that the fuel economy data vehicle, with respect to which data are submitted:

(i) Has been tested in accordance with applicable test procedures.

(ii) Is, to the best of the manufacturer's knowledge, representative of the vehicle configuration listed, and

(iii) Is in compliance with applicable exhaust emission standards.

(c) The manufacturer shall submit the following fuel economy data:

(1) For vehicles tested to meet the requirements of Part 86 (other than those chosen in accordance with § 86.082-24(c) and (h)), the city of highway fuel economy results from all tests on that vehicle, and the test results adjusted in accordance with paragraph (g) of this section.

(2) For each fuel economy data vehicle, all individual test results (excluding results of invalid and zero mile tests) and the test results adjusted in accordance with paragraph (g) of this section.

(d) The manufacturer shall submit an indication of the intended purpose of the data (e.g., data required by the general labeling program or voluntarily submitted for specific labeling, etc.).

(e) In lieu of submitting actual data from a test vehicle, a manufactuer may provide fuel economy values derived from an analysis. In order for fuel economy values derived from analytical methods to be accepted, the expression (form and coefficients) must have been approved by the Administrator.

(f) If, in conducting tests required or authorized by this part, the manufacturer utilizes procedures, equipment, or facilities not described in the Application for Certification required in § 86.079-21, the manufacturer shall submit a description of such procedures, equipment, and facilities.

(g) For test data generated by certification vehicles selected under 40 CFR 86.082-24(b) with engine system combination at more than 10,000 kilometers (6,200 miles) accumulation, the manufacturer shall adjust the test data using either of the following equations:

$$FE_{6,400km} = FE_T\,[0.969 + 0.523 \times 10^{-5}(km)]^{-1}$$
Equation A

$$FE_{4,000m} = FE_T\,[0.969 + 0.842 \times 10^{-5}(m)]^{-1}$$
Equation B

Where:

$FE_{6,400km}$ = Fuel economy data adjusted to 6,400-kilometer test point
$FE_{4,000m}$ = Fuel economy data adjusted to 4,000-mile test point
FE_T = Tested fuel economy value
km = Kilometer accumulation at test point
m = Miles accumulation at test point

(1) The adjusted values, rounded to 0.1 mpg, shall be considered the official data for that test.

(2) For vehicles with 10,000 kilometers (6,200 miles) or less accumulated, the manufacturer is not required to adjust the data.

[46 FR 50497, Oct. 13, 1981]

§ 600.007-77 Vehicle acceptability.

(a) All certification vehicles and other vehicles tested to meet the requirements of Part 86 (other than those chosen per § 86.077-24(c)) are considered to have met the requirements of this section.

(b) Any vehicle not meeting the provisions of paragraph (a) of this section must be judged acceptable by the Administrator under this section in order for the test results to be reviewed for use in Subpart C or F of this part. The Administrator will judge the acceptability of a fuel economy data vehicle on the basis of the information supplied by the manufacturer under § 600.006(b). The criteria to be met are:

(1) A fuel economy data vehicle may have accumulated not more than 10,000 miles. A vehicle will be considered to have met this requirement if the engine and drivetrain have accumulated 10,000 or fewer miles. The components installed for a fuel economy test are not required to be the ones with which the mileage was accumulated, e.g., axles, transmission types and tire sizes may be changed. The Administrator will determine if vehicle/engine component changes are acceptable.

(2) A vehicle may be tested in different vehicle configurations by change of vehicle components, as specified in paragraph (b)(1), of this section, or by testing at different inertia weights or road load power settings. For the purpose of this part, each vehicle configuration will be considered a distinct vehicle and must be identified accordingly.

(3) The mileage on a fuel economy data vehicle must be, to the extent possible, accumulated according to § 86.077-26(a)(2).

(4) Each fuel economy data vehicle must meet the same exhaust emission standards as certification vehicles of the respective engine-system combination during the test in which the city fuel economy test results are generated. The deterioration factors established for the respective engine-system combination per § 86.077-28 will be used.

(5) The calibration information submitted under § 600.006(b) must be representative of the vehicle configuration for which the fuel economy data were submitted.

(6) Any vehicle tested for fuel economy purposes must be representative of a vehicle which the manufacturer intends to produce under the provisions of a certificate of conformity.

(c) If, based on review of the information submitted under § 600.006(b), the Administrator determines that a fuel economy data vehicle meets the requirements of this section, the fuel economy data vehicle will be judged to be acceptable and fuel economy data from that fuel economy data vehicle will be reviewed pursuant to § 600.008.

(d) If, based on the review of the information submitted under § 600.006(b), the Administrator determines that a fuel economy data vehicle does not meet the requirements of this section, the Administrator will reject that fuel economy data vehicle and inform the manufacturer of the rejection in writing.

(e) If, based on a review of the emission data for a fuel economy data vehicle, submitted under § 600.006(b), or emission data generated by a vehicle tested under § 600.008(e), the Administrator finds an indication of non-compliance with Section 202 of the Clean Air Act, 42 U.S.C. Section 1857 et seq. of the regulation thereunder, he may take such investigative actions as are appropriate to determine to what extent emission noncompliance actually exists.

(1) The Administrator may, under the provisions of § 86.077-37(a) request the manufacturer to submit production vehicles of the configuration(s) specified by the Administrator for testing to determine to what extent emission noncompliance of a production vehicle configuration or of a group of production vehicle configurations may actually exist.

(2) If the Administrator determines, as a result of his investigation, that substantial emission non-compliance is exhibited by a production vehicle configuration or group of production vehicle configurations, he may proceed with respect to the vehicle configuration(s) as provided under section 206(b)(2) or section 207(c)(1), as applicable, of the Clean Air Act, 42 U.S.C. section 1857 et seq.

(f) All vehicles used to generate fuel economy data must be covered by a certificate of conformity under Part 86 before:

(1) The date may be used in the calculation of any approved general or specific label value, or

(2) The data will be used in any calculations under Subpart F of this part.

[41 FR 38685, Sept. 10, 1976, as amended at 41 FR 49760, Nov. 10, 1976; 42 FR 45657, Sept. 12, 1977; 43 FR 52928, Nov. 14, 1978]

§ 600.007-80 Vehicle acceptability.

(a) All certification vehicles and other vehicles tested to meet the requirements of Part 86 (other than those chosen per § 86.080-24(c) are considered to have met the requirements of this section.

(b) Any vehicle not meeting the provisions of paragraph (a) must be judged acceptable by the Administrator under this section in order for the test results to be reviewed for use in Subpart C or F of this part. The Administrator will judge the acceptability of a fuel economy data vehicle on the basis of the information supplied by the manufacturer under § 600.006(b). The criteria to be met are:

(1) A fuel economy data vehicle may have accumulated not more than 10,000 miles. A vehicle will be considered to have met this requirement if the engine and drivetrain have accumulated 10,000 or fewer miles. The components installed for a fuel economy test are not required to be the ones with which the mileage was accumulated, e.g., axles, transmission types, and tire sizes may be changed. The Administrator will determine if vehicle/engine component changes are acceptable.

(2) A vehicle may be tested in different vehicle configurations by change of vehicle components, as specified in paragraph (b)(1) of this section, or by testing in different inertia weight classes. Also, a single vehicle may be tested under different test conditions, i.e., test weight and/or road load horsepower, to generate fuel economy data representing various situations within a vehicle configuration. For purposes of this part, data generated by a single vehicle tested in various test conditions will be treated as if the data were generated by the testing of multiple vehicles.

(3) The mileage on a fuel economy data vehicle must be, to the extent possible, accumulated according to § 86.079-26(a)(2).

(4) Each fuel economy data vehicle must meet the same exhaust emission standards as certification vehicles of the respective engine-system combination during the test in which the city fuel economy test results are generated. The deterioration factors established for the respective engine-system combination per § 86.079-28 will be used.

(5) The calibration information submitted under § 600.006(b) must be representative of the vehicle configuration for which the fuel economy data were submitted.

(c) If, based on review of the information submitted under § 600.006(b), the Administrator determines that a fuel economy data vehicle meets the requirements of this section, the fuel economy data vehicle will be judged to be acceptable and fuel economy data from that fuel economy data vehicle will be reviewed pursuant to § 600.008.

(d) If, based on the review of the information submitted under § 600.006(b), the Administrator determines that a fuel economy data vehicle does not meet the requirements of this section, the Administrator will reject that fuel economy data vehicle and inform the manufacturer of the rejection in writing.

(e) If, based on a review of the emission data for a fuel economy data vehicle, submitted under § 600.006(b), or emission data generated by a vehicle tested under § 600.008(e), the Administrator finds an indication of non-compliance with section 202 of the Clean Air Act, 42 U.S.C. 1857 et seq. of the regulation thereunder, he may take such investigative actions as are appropriate to determine to what extent emission non-compliance actually exists.

(1) The Administrator may, under the provisions of § 86.079-37(a) request the manufacturer to submit production vehicles of the configuration(s) specified by the Administrator for testing to determine to what extent emission noncompliance of a production vehicle configuration or of a group of production vehicle configurations may actually exist.

(2) If the Administrator determines, as a result of his investigation, that substantial emission non-compliance is exhibited by a production vehicle configuration or group of production vehicle configurations, he may proceed with respect to the vehicle configuration(s) as provided under section 206(b)(2) or section 207(c)(1), as

applicable of the Clean Air Act, 42 U.S.C. 1857 et seq.

(f) All vehicles used to generate fuel economy data must be covered by a certificate of conformity under Part 86 before:

(1) The data may be used in the calculation of any approved general or specific label value, or

(2) The data will be used in any calculations under Subpart F.

[42 FR 45657, Sept. 12, 1977, as amended at 43 FR 52928, Nov. 14, 1978]

§ 600.008-77 Review of fuel economy data, testing by the Administrator.

(a) Fuel economy data must be judged acceptable by the Administrator in order for the test results to be used for the purposes of Subpart C or F of this part. The Administrator will evaluate the acceptability of the fuel economy data from either a fuel economy data vehicle or a certification vehicle on the basis of the data submitted under § 600.006 or test data generated by the Administrator, as applicable, in accordance with good engineering practice.

(b) If, in the Administrator's judgment, the city and highway fuel economy results (or the harmonic averages, as applicable, if more than one test were conducted) for a fuel economy data vehicle, or for a certification vehicle, are reasonable and representative, the Administrator will accept the fuel economy data (or harmonic averages, as applicable, of the city and highway fuel economy data if more than one test was conducted) for use in Subpart C or F of this part. In making this determination, the Administrator will, when possible, compare the results of a test vehicle to those of other similar test vehicles.

(c) If, in the Administrator's judgment, the city and highway fuel economy results (or the harmonic averages if more than one test were conducted) for a fuel economy data vehicle or for a certification vehicle are not reasonable or representative, the Administrator will notify the manufacturer in writing of his finding and require the manufacturer to submit the test vehicle(s) in question, at a place he may designate, for the purpose of fuel economy testing.

(d) The Administrator may require that any fuel economy data vehicle or certification vehicle be submitted, at a place he may designate, for the purpose of confirmation of fuel economy testing.

(e) For any fuel economy data vehicle that the Administrator has required to be submitted, at a place he may designate for the purpose of fuel economy testing, and for any certification vehicle, the Administrator will follow this procedure:

(1) The manufacturer's data (or harmonically averaged data if more than one test was conducted) will be compared with the results of the Administrator's test.

(2) If, in the Administrator's judgment, the comparison in paragraph (e)(1) of this section indicates a disparity in the data, the Administrator will repeat the city test or the highway test or both as applicable.

(i) The manufacturer's average test results and the results of the Administrator's first test will be compared with the results of the Administrator's second test as in paragraph (e)(1) of this section.

(ii) If, in the Administrator's judgment, both comparisons in (e)(2)(i) of this section, indicate a disparity in the data, the Administrator will repeat the city fuel economy test or highway fuel economy test or both as applicable until:

(A) In the Administrator's judgment no disparity in the data is indicated by comparison of two tests by the Administrator or by comparison of the manufacturer's average test results and a test by the Administrator, or

(B) Four city tests or four highway tests or both, as applicable, are conducted by the Administrator in which a disparity in the data is indicated when compared as in paragraph (e)(2) of this section.

(3) If there is, in the Administrator's judgment, no disparity indicated by comparison of manufacturer's average test results with a test by the Administrator, the test values generated by the Administrator will be used to represent the vehicle.

(4) If there is, in the Administrator's judgment, no disparity indicated by comparison of two tests by the Admin-

istrator, the harmonic averages of the city and highway fuel economy results from those tests will be used to represent the vehicle.

(5) If the situation in paragraph (e)(2)(ii)(B) of this section occurs, the Administrator will notify the manufacturer, in writing, that the Administrator rejects that fuel economy data vehicle.

(f) The fuel economy data determined by the Administrator under paragraph (e) (3) or (4) of this section, together with all other fuel economy data submitted for that vehicle under § 600.006 (c) or (e) will be evaluated for reasonableness and representativeness per paragraph (b) of this section. The fuel economy data which are determined to best meet the criteria of paragraph (b) of this section will be accepted for use in Subpart C or F of this part.

(g) If, based on a review of the fuel economy data generated by testing under paragraph (e) of this section, the Administrator determines that an unacceptable level of correlation exists between fuel economy data generated by a manufacturer and fuel economy data generated by the Administrator, he may reject all fuel economy data submitted by the manufacturer until the cause of the discrepancy is determined and the validity of the data is established by the manufacturer.

(h) (1) If, based on the results of an inspection conducted under § 600.005(b) or any other information, the Administrator has reason to believe that the manufacturer has not followed proper testing procedures or that the testing equipment is faulty or improperly calibrated, or if records do not exist that will enable him to make a finding of proper testing, the Administrator may notify the manufacturer in writing of his finding and require the manufacturer to:

(i) Submit the test vehicle(s) upon which the data are based or additional test vehicle(s) at a place he may designate for the purpose of fuel economy testing.

(ii) Conduct such additional fuel economy testing as may be required to demonstrate that prior fuel economy test data are reasonable and representative.

(2) Previous acceptance by the Administrator of any fuel economy test data submitted by the manufacturer shall not limit the Administrator's right to require additional testing under paragraph (h)(1) of this section.

(3) If, based on tests required under paragraph (h)(1) of this section, the Administrator determines that any fuel economy data submitted by the manufacturer and used to calculate the manufacturer's fuel economy average was unrepresentative, the Administrator may recalculate the manufacturer's fuel economy average based on fuel economy data that he deems representative.

(4) A manufacturer may request a hearing as provided in § 600.009 if the Administrator decides to recalculate the manufacturer's average pursuant to determinations made relative to this section.

[41 FR 38685, Sept. 10, 1976, as amended at 41 FR 49760, Nov. 10, 1976]

§ 600.009-77 Hearings on acceptance of test data.

(a) If the Administrator rejects the use of a manufacturer's fuel economy data vehicle, in accordance with § 600.008 (e) or (g), or the use of fuel economy data, in accordance with § 600.008 (c), or (f), or with the determination of a vehicle configuration, in accordance with § 600.206(a), or with the identification of a car line, in accordance with § 600.207(d), or with the fuel economy label values approved by the Administrator under § 600.213(a) the manufacturer may, within 30 days following receipt of such notification, request a hearing on the Administrator's decision. The request may be in writing, signed by an authorized representative of the manufacturer and include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objection. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, the manufacturer shall have a hearing in accordance with the provisions of this section with respect to such issue.

(b) (1) After granting a request for a hearing under paragraph (a) of this section the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing has not been fixed by the Administrator under paragraph (a) of this section the hearing will be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(c) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer shall establish a hearing file. The file consists of the notice issued by the Administrator under paragraph (a) of this section together with any accompanying material, the request for a hearing and the supporting data submitted therewith and correspondence and other data material to the hearing.

(2) The hearing file will be available for inspection by the applicant at the office of the Presiding Officer.

(d) A manufacturer may appear in person, or may be represented by counsel or by any other duly authorized representative.

(e) (1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by the Presiding Officer to consider the following:

(i) Simplification and clarification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(f) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of 19 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witnesses may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authority, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and will be reported as part of the record unless otherwise ordered.

(g) (1) The Presiding Officer will make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all material issues of fact, law or discretion presented on the record. The findings, conclusions, and written decisions shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator will have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking

of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administration will include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law or discretion presented on the appeal or considered in the review.

(h) A manufacturer's use of any fuel economy data which the manufacturer challenges pursuant to this section shall not constitute final acceptance by the manufacturer nor prejudice the manufacturer in the exercise of any appeal pursuant to this section challenging such fuel economy data.

§ 600.010-77 Vehicle test requirements.

(a) For each certification vehicle defined in this part, and for each vehicle required by the Administrator to be tested pursuant to the emission test procedures in Part 86 for approval of an addition of a model after certification (86.077-32) or, approval of a running change (86.077-33):

(1) The manufacturer shall generate city fuel economy data by testing according to the applicable procedures.

(2) The manufacturer shall generate highway fuel economy data by:

(i) Testing according to applicable procedures, or

(ii) Use of an analytical technique as described in § 600.006(e).

(3) The data generated in paragraphs (a) (1) and (2) of this section, shall be submitted to the Administrator in combination with other data for the vehicle required to be submitted in Part 86.

(b) For each fuel economy data vehicle:

(1) The manufacturer shall generate city fuel economy data and highway fuel economy data by:

(i) Testing according to applicable procedures, or

(ii) Use of an analytical technique as described in § 600.006(e), in addition to testing (e.g., city fuel economy data by testing, highway fuel economy data by analytical technique).

(2) The data generated shall be submitted to the Administrator according to the procedures in § 600.006.

[41 FR 49760, Nov. 10, 1976, as amended at 43 FR 52928, Nov. 14, 1978]

Subpart B—Fuel Economy Regulations for 1978 and Later Model Year Automobiles—Test Procedures

SOURCE: 42 FR 45657, Sept. 12, 1977, unless otherwise noted.

§ 600.101-78 General applicability.

The provisions of this subpart are applicable to 1978 and later model year automobiles.

§ 600.101-81 General applicability.

The provisions of this subpart are applicable to 1981 and later model year gasoline-fueled and diesel automobiles.

[45 FR 49261, July 24, 1980]

§ 600.102-78 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.103-78 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.104-78 Section numbering, construction.

The section numbering system set forth in § 600.004 applies to this subpart.

§ 600.105-78 Record keeping.

The record keeping requirements set forth in § 600.005 apply to this subpart.

§ 600.106-78 Equipment requirements.

The requirements for test equipment to be used for all fuel economy testing are given in §§ 86.106, 86.107, 86.108, 86.109, and 86.111 of this chapter, as applicable.

§ 600.107-78 Fuel specifications.

(a) The test fuel specifications for gasoline-fueled automobiles are given in paragraph (a)(1) of § 86.113 of this chapter.

(b) The test fuel specifications for diesel automobiles are given in paragraphs (b) (1) and (2) of § 86.113 of this chapter.

§ 600.108-78 Analytical gases.

The analytical gases for all fuel economy testing must meet the criteria given in § 86.114 of this chapter.

§ 600.109-78 EPA driving cycles.

(a) The driving cycle to be utilized for generation of the city fuel economy data is prescribed in § 86.115 of this chapter.

(b) The driving cycle to be utilized for generation of the highway fuel economy data is specified in this paragraph.

(1) The Highway Fuel Economy Driving Schedule is set forth in Appendix I to this part. The driving schedule is defined by a smooth trace drawn through the specified speed versus time relationships.

(2) The speed tolerance at any given time on the dynamometer driving schedule specified in Appendix I, or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of paragraph (b) of § 600.111 is defined by upper and lower limits. The upper limit is 2 mph higher than the highest point on trace within 1 second of the given time. The lower limit is 2 mph lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences.

(3) A graphic representation of the range of acceptable speed tolerances is found in paragraph (c) of § 86.115 of this chapter.

§ 600.110-78 Equipment calibration.

The equipment used for fuel economy testing must be calibrated according to the provisions of § 86.116 of this chapter.

§ 600.111-80 Test procedures.

(a) The test procedures to be followed for generation of the city fuel economy data are those prescribed in §§ 86.127 through 86.138 of this chapter, as applicable. (The evaporative loss portion of the test procedure may be omitted unless specifically required by the Administrator.)

(b) The test procedures to be followed for generation of the highway fuel economy data are those specified in § 600.111-78 (b) through (h) inclusive.

(1) The Highway Fuel Economy Dynamometer Procedure consists of a preconditioning highway driving sequence and a measured highway driving sequence.

(2) The highway fuel economy test is designated to simulate non-metropolitan driving with an average speed of 48.6 mph and a maximum speed of 60 mph. The cycle is 10.2 miles long with 0.2 stops per mile and consists of warmed-up vehicle operation on a chassis dynamometer through a specified driving cycle. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis using a constant volume (variable dilution) sampler. Diesel dilute exhaust is continuously analyzed for hydrocarbons using a heated sample line and analyzer.

(3) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle must be functioning during all procedures in this subpart. The Administrator may authorize maintenance to correct component malfunction or failure.

(c) *Transmission.* The provisions of § 86.128 of this chapter apply for vehicle transmission operation during highway fuel economy testing under this subpart.

(d) *Road load power and test weight determination.* Section 86.129 of this chapter applies for determination of road load power and test weight for highway fuel economy testing. The test weight for the testing of a certification vehicle will be that test weight specified by the Administrator under the provisions of Part 86. The test weight for a fuel economy data vehicle will be that test weight specified by the Administrator from the test weights covered by that vehicle configuration. The Administrator will base his selection of a test weight on the relative projected sales volumes of the various test weights within the vehicle configuration.

(e) *Vehicle preconditioning.* The Highway Fuel Economy Dynamometer Procedure is designed to be performed immediately following the Federal Emission Test Procedure, §§ 86.127 through 86.138 of this chapter. When conditions allow, the tests should be scheduled in this sequence. In the event the tests cannot be scheduled within three hours of the Federal Emission Test Procedure (including one hour hot soak evaporation loss test, if applicable) the vehicle should be preconditioned as in paragraph (e)(1) or (2) of this section, as applicable.

(1) If the vehicle has experienced more than three hours of soak (68°F-86° F) since the completion of the Federal Emission Test Procedure, or has experienced periods of storage outdoors, or in environments where soak temperature is not controlled to 68° F-86° F, the vehicle must be preconditioned by operation on a dynamometer through one cycle of the EPA Urban Dynamometer Driving Schedule, § 86.115 of this chapter.

(2) In unusual circumstances where additional preconditioning is desired by the manufacturer, the provisions of paragraph (a)(3) of § 86.132 of this chapter apply.

(f) *Highway fuel economy dynamometer procedure.* (1) The dynamometer procedure consists of two cycles of the Highway Fuel Economy Driving Schedule (§ 600.109 (b)) separated by 15 seconds of idle. The first cycle of the Highway Fuel Economy Driving Schedule is driven to precondition the test vehicle and the second is driven for the fuel economy measurement.

(2) The provisions of paragraphs (b), (c), (e), (f), (g), and (h) of § 86.135 *Dynamometer procedure* of this chapter, apply for highway fuel economy testing.

(3) Only one exhaust sample and one background sample are collected and analyzed for hydrocarbons (except diesel hydrocarbons which are analyzed continuously), carbon monoxide, and carbon dioxide.

(4) The fuel economy measurement cycle of the test includes two seconds of idle indexed at the beginning of the second cycle and two seconds of idle indexed at the end of the second cycle.

(g) *Engine starting and restarting.* (1) If the engine is not running at the initiation of the highway fuel economy test (preconditioning cycle), the start-up procedure must be according to the manufacturer's recommended procedures.

(2) False starts and stalls during the preconditioning cycle must be treated as in paragraphs (d) and (e) of § 86.136 of this chapter. If the vehicle stalls during the measurement cycle of the highway fuel economy test, the test is voided, corrective action may be taken according to § 86.079-25 of this chapter, and the vehicle may be rescheduled for test. The person taking the corrective action shall report the action so that the test records for the vehicle contain a record of the action.

(h) *Dynamometer test run.* The following steps must be taken for each test:

(1) Place the drive wheels of the vehicle on the dynamometer. The vehicle may be driven onto the dynamometer.

(2) Open the vehicle engine compartment cover and position the cooling fan(s) required. Manufacturers may request the use of additional cooling fans for additional engine compartment or under-vehicle cooling and for controlling high tire or brake temperatures during dynamometer operation.

(3) Preparation of the CVS must be performed before the measurement highway driving cycle.

(4) Equipment preparation. The provisions of paragraphs (b) (3) through (5) inclusive of § 86.137 of this chapter apply for highway fuel economy test except that only one exhaust sample collection bag and one dilution air sample collection bag need be connected to the sample collection systems.

(5) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in paragraph (b) of § 600.109.

(6) When the vehicle reaches zero speed at the end of the preconditioning cycle, the driver has 17 seconds to prepare for the emission measurement cycle of the test. Reset and enable the roll revolution counter.

(7) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in paragraph (b) of § 600.109 while sampling the exhaust gas.

(8) Sampling must begin two seconds before beginning the first acceleration of the fuel economy measurement cycle and must end two seconds after the end of the deceleration to zero. At the end of the deceleration to zero speed, the roll or shaft revolutions must be recorded.

[42 FR 45657, Sept. 12, 1977, as amended at 43 FR 52929, Nov. 14, 1978]

§ 600.112-78 Exhaust sample analysis.

The exhaust sample analysis must be performed according to § 86.140 of this chapter.

§ 600.113-78 Fuel economy calculations.

The calculations of vehicle fuel economy values require the weighted grams/mile values for HC, CO, and CO_2 for the city fuel economy test and the grams/mile values for HC, CO, and CO_2 for the highway fuel economy test. The city and highway fuel economy values must be calculated by the procedures of this section. A sample calculation appears in Appendix II to this part.

(a) Calculate the weighted grams/mile values for the city fuel economy test for HC, CO, and CO_2 as specified in § 86.144 of this chapter.

(b)(1) Calculate the mass values for the highway fuel economy test for HC, CO, and CO_2 as specified in paragraph (b) of § 86.144 of this chapter.

(2) Calculate the grams/mile values for the highway test for HC, CO, and CO_2 by dividing the mass values obtained in (b)(1) by the actual distance traveled, measured in miles, as specified in paragraph (h) of § 86.135 of this chapter.

(c) Calculate the city fuel economy and highway fuel economy from grams/mile values for HC, CO, and CO_2. The emission values (obtained per paragraph (a) or (b) as applicable) used in each calculation of this section shall be rounded in accordance with § 86.079-26(a)(6)(ii). The CO_2 values (obtained per paragraph (a) or (b) of this section as applicable) used in each calculation in this section are rounded to the nearest gram/mile.

(d) For gasoline-fueled automobiles, calculate the fuel economy in miles per gallon of gasoline by dividing 2421 by the sum of three terms:

(1) 0.866 multiplied by HC (in grams/miles as obtained in paragraph (c)),

(2) 0.429 multiplied by CO (in grams/miles as obtained in paragraph (c), and

(3) 0.273 multiplied by CO_2 (in grams/mile as obtained in paragraph (c) of this section).

Round to quotient to the nearest 0.1 mile per gallon.

(e) For diesel powered automobiles, calculate the fuel economy in miles per gallon of diesel fuel by dividing 2778 by the sum of three terms:

(1) 0.866 multiplied by HC (in grams/mile as obtained in paragraph (c) of this section),

(2) 0.429 multiplied by CO (in grams/mile as obtained in paragraph (c)), and

(3) 0.273 multiplied by CO_2 (in grams/mile as obtained in paragraph (c)).

Round the quotient to the nearest 0.1 mile per gallon.

[42 FR 45657, Sept. 12, 1977, as amended at 43 FR 52929, Nov. 14, 1978]

Subpart C—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Procedures for Calculating Fuel Economy Values

§ 600.201-77 General applicability.

The provisions of this subpart are applicable to 1977 and later model year automobiles.

§ 600.202-77 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.203-77 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.204-77 Section numbering, construction.

The section numbering system set forth in § 600.004 applies to this subpart.

§ 600.205-77 Record keeping.

The record keeping requirements set forth in § 600.005 apply to this subpart.

§ 600.206-80 Calculation of fuel economy values for a vehicle configuration.

(a) Fuel economy values determined for each vehicle and as approved in § 600.008 (b) or (f) are used to determine city, highway, and combined fuel economy values for each vehicle configuration (as determined by the Administrator) for which data are available.

(1) If only one city fuel economy and one highway fuel economy value exist for a vehicle configuration, those values, rounded to the nearest tenth of a mile per gallon, comprise the city fuel economy value and highway fuel economy value for that configuration.

(2) If more than one city and one highway fuel economy value exist for a vehicle configuration:

(i) All data shall be grouped according to each unique road load horsepower setting/test weight combination at which the data was generated.

(ii) Within each group of data, all values are harmonically averaged and rounded to the nearest 0.0001 of a mile per gallon for the city fuel economy values, and harmonically averaged and rounded to the nearest 0.0001 mile per gallon for the highway values, in order to determine a city and a highway fuel economy value for each road load horsepower setting/test weight at which the vehicle configuration was tested.

(iii) All city fuel economy values and all highway fuel economy values calculated in paragraph (a)(2) (ii) of this section, are (separately for city and highway) harmonically averaged in proportion to the relative sales within the vehicle configuration (as provided to the Administrator by the manufacturer) of vehicles of each tested road load horsepower setting/test weight combination. The resultant values, rounded to the nearest 0.0001 mile per gallon, are the city and highway fuel economy values for the vehicle configuration.

(3) The combined fuel economy value for a vehicle configuration is calculated by harmonically averaging the city and highway fuel economy values, as determined in § 600.206(a) (1) and (2), weighted 0.55 and 0.45, respectively, and rounding to 0.0001 of a mile per gallon. A sample of this calculation appears in Appendix II to this part.

[43 FR 26723, June 22, 1978]

§ 600.206-81 Calculation and use of fuel economy values for gasoline-fueled, diesel, and electric vehicle configurations.

(a) Fuel economy values determined for each vehicle, and as approved in § 600.008 (b) or (f), are used to determine city, highway, and combined fuel economy values for each vehicle configuration (as determined by the Administrator) for which data are available.

(1) If only one city fuel economy and one highway fuel economy value exist for a vehicle configuration, those values, rounded to the nearest tenth of a mile per gallon, comprise the city fuel economy value and highway fuel economy value for that configuration.

(2) If more than one city and one highway fuel economy value exists for a vehicle configuration:

(i) All data shall be grouped according to the road-load horsepower setting at which the data was generated.

(ii) Within each group of data, all values are harmonically averaged and rounded to the nearest 0.0001 of a mile per gallon for the city fuel economy values, and harmonically averaged and rounded to the nearest 0.0001 mile per gallon for the highway values, in order to determine a city and a highway fuel economy value for each road-load horsepower setting at which the vehicle configuration was tested.

(iii) All city fuel economy values and all highway fuel economy values calculated in paragraph (a)(2)(ii) of this section are (separately for city and highway) harmonically averaged in proportion to the relative sales within the vehicle configuration (as provided to the Administrator by the manufacturer) of vehicles of each tested road-load horsepower setting. The resultant values, rounded to the nearest 0.0001 mile per gallon, are the city and highway fuel economy values for the vehicle configuration.

(3) The combined fuel economy value for a vehicle configuration is calculated by harmonically averaging the city and highway fuel economy values, as determined in § 600.206(a)(1)(2), weighted 0.55 and 0.45 respectively, and rounding to 0.0001 of a mile per gallon. A sample of this calculation appears in Appendix II to this part.

(b) If only one equivalent petroleum-based fuel economy value exists for an electric vehicle configuration, that value, rounded to the nearest tenth of a mile per gallon, will comprise the petroleum-based fuel economy for that configuration.

(c) If more than one equivalent petroleum-based fuel economy value exists for an electric vehicle configuration, all values for that vehicle configuration are harmonically averaged and rounded to the nearest 0.0001 of a mile per gallon for that configuration.

[45 FR 49261, July 24, 1980]

§ 600.207-79 Calculation and use of fuel economy values for a model type.

(a) Fuel economy values for a base level are calculated from vehicle configuration fuel economy values, as determined in § 600.206(a) for low altitude tests.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each base level for vehicles intended for sale in California and for each base level for vehicles intended for sale in the rest of the states.

(2) The manufacturer shall supply model year sales projections for each road load/car line/vehicle configuration combination.

(i) Sales projections must be supplied separately for each vehicle configuration intended for sale in California and each configuration intended for sale in the rest of the states if required by the Administrator under paragraph (a)(1) of this section.

(ii) The sales projections must be updated as of the date a manufacturer requests that fuel economy calculations for a model type be made by the Administrator.

(iii) The requirements of this section may be satisfied by providing an amended application for certification, as described in § 86.079-21 of this chapter.

(3) Vehicle configuration fuel economy values, as determined in § 600.206(a), are grouped according to base level.

(i) If only one vehicle configuration within a base level has been tested, the fuel economy value from that vehicle configuration constitutes the fuel economy for that base level.

(ii) If more than one vehicle configuration within a base level have been tested, the vehicle configuration fuel economy values are harmonically averaged in proportion to the respective projected sales fraction (rounded to the nearest 0.0001) of each vehicle configuration and the resultant fuel economy value rounded to the nearest 0.0001 of a mile per gallon.

(iii) If the Administrator has not accepted fuel economy data derived from the testing of a certification vehicle (or a vehicle tested for running changes approved under §§ 86.079-32, 86.079-33, or 86.079-34) for at least one vehicle configuration within each base level, the manufacturer shall submit (on or before the date that the manufacturer requests the Administrator to calculate the respective general label values) data as specified in § 600.006. The fuel economy data submitted shall be for the vehicle configuration with the largest projected sales within the respective base level. The vehicle tested will be tested at the road load horsepower with the highest projected sales within the vehicle configuration.

(4) The procedure specified in § 600.207(a) will be repeated for each base level, thus establishing city, highway, and combined fuel economy values for each base level.

(5) For the purposes of calculating a base level fuel economy value, if the only vehicle configuration(s) within

the base level are vehicle configuration(s) which are intended for sale at high altitude, the Administrator may use fuel economy data from test conducted on these vehicle configuration(s) at high altitude to calculate the fuel economy for the base level.

(b) For each model type, as determined by the Administrator, a city, highway, and combined fuel economy value will be calculated by using the projected sales and fuel economy values for each base level within the model type.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each model type separately for vehicles intended for sale in California and for those intended for sale in the rest of the states.

(2) The sales fraction for each base level is calculated by dividing the projected sales of the base level within the model type by the projected sales of the model type and rounding the quotient to the nearest 0.0001 mpg.

(3) The city fuel economy values of the model type (calculated to the nearest 0.0001 mpg) are determined by dividing one by a sum of terms, each of which corresponds to a base level and which is a fraction determined by dividing

(i) The sales fraction of the base level, by

(ii) The city fuel economy value for the respective base level.

(4) The procedure specified in paragraph (b)(3) of this section is repeated in an analogous manner to determine the highway and combined fuel economy values for the model type.

[43 FR 26723, June 22, 1978]

§ 600.207-80 Calculation and use of fuel economy values for a model type.

(a) Fuel economy values for a base level are calculated from vehicle configuration fuel economy values as determined in § 600.206(a) for low altitude tests.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each base level for vehicles intended for sale in California and for each base level for vehicles intended for sale in the rest of the states.

(2) The manufacturer shall supply model year sales projections for each test weight/road load/car line/vehicle configuration combination.

(i) Sales projections must be supplied separately for each vehicle configuration intended for sale in California and each configuration intended for sale in the rest of the states if required by the Administrator under paragraph (a)(1) of this section.

(ii) The sales projections must be updated as of the date a manufacturer requests that fuel economy calculations for a model-type be made by the Administrator.

(iii) The requirements of this section may be satisfied by providing an amended application for certification, as described in § 86.079-21 of this chapter.

(3) Vehicle configuration fuel economy values, as determined in § 600.206(a), are grouped according to base level.

(i) If only one vehicle configuration within a base level has been tested, the fuel economy value from that vehicle configuration constitutes the fuel economy for that base level.

(ii) If more than one vehicle configuration within a base level have been tested, the vehicle configuration fuel economy values are harmonically averaged in proportion to the respective projected sales fraction (rounded to the nearest 0.0001) of each vehicle configuration and the resultant fuel economy value rounded to the nearest 0.0001 of a mile per gallon.

(iii) If the Administrator has not accepted fuel economy data derived from the testing of a certification vehicle (or a vehicle tested for running changes approved under §§ 86.079-32, 86.079-33, or 86.079-34) for at least one vehicle configuration within each base level, the manufacturer shall submit (on or before the date that the manufacturer requests the Administrator to calculate the respective general label values) data as specified in § 600.006. The fuel economy data submitted shall be for the vehicle configuration with the largest projected sales within the respective base level. The vehicle will be tested at the road load horsepower/test weight combination which has the largest projected sales within the vehicle configuration.

(4) The procedure specified in § 600.207(a) will be repeated for each base level, thus establishing city, highway, and combined fuel economy values for each base level.

(5) For the purposes of calculating a base level fuel economy value, if the only vehicle configuration(s) within the base level are vehicle configuration(s) which are intended for sale at high altitude, the Administrator may use fuel economy data from tests conducted on these vehicle configuration(s) at high altitude to calculate the fuel economy for the base level.

(b) For each model type, as determined by the Administrator, a city, highway, and combined fuel economy value will be calculated by using the projected sales and fuel economy values for each base level within the model type.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each model type separately for vehicles intended for sale in California and for those intended for sale in the rest of the states.

(2) The sales fraction for each base level is calculated by dividing the projected sales of the base level within the model type by the projected sales of the model type and rounding the quotient to the nearest 0.0001.

(3) The city fuel economy values of the model type (calculated to the nearest 0.0001 mpg) are determined by dividing one by a sum of terms, each of which corresponds to a base level and which is a fraction determined by dividing

(i) The sales fraction of the base level, by

(ii) The city fuel economy value for the respective base level.

(4) The procedure specified in paragraph (b)(3) of this section is repeated in an analogous manner to determine the highway and combined fuel economy values for the model type.

[43 FR 26723, June 22, 1978]

§ 600.208-77 Sample calculation.

An example of the calculation required in this subpart appears in Appendix III.

[41 FR 49761, Nov. 10, 1976]

Subpart D—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Labeling

SOURCE: 41 FR 49761, Nov. 10, 1976, unless otherwise noted.

§ 600.301-77 General applicability.

The provisions of this subpart are applicable to 1977 and later model year automobiles.

§ 600.301-81 General applicability.

The provisions of this subpart are applicable to 1981 and later model year automobiles. This rule exempts manufacturers who produce only electric vehicles from complying with the requirements to supply test data and sales projections.

[45 FR 49262, July 24, 1980]

§ 600.302-77 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.303-77 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.304-77 Section numbering, construction.

The section numbering procedure set forth in § 600.004 applies to this subpart.

§ 600.305-77 Record keeping.

The record keeping requirements set forth in § 600.005 apply to this subpart.

§ 600.306-81 Labeling requirements.

(a) Prior to being offered for sale, each manufacturer shall affix or cause to be affixed and each dealer shall maintain or cause to be maintained on each automobile:

(1) A general fuel economy label as described in § 600.308, or;

(2) A specific label, as described in § 600.309, for those low altitude automobiles manufactured or imported before the date that occurs 15 days after general labels are approved for the manufacturer.

(i) If the manufacturer elects to use a specific label within a model type (as defined in § 600.002(a)(19)), he shall also have approved specific labels affixed on all automobiles within this model type, except on those automobiles manufactured or imported before the date that labels are required to bear range values as required by paragraph (b) of this section, or determined by the Administrator, or as permitted under § 600.310.

If a manufacturer elects to change from general to specific labels or vice versa within a model type, the manufacturer shall, within five calendar days, initiate or discontinue as applicable, the use of specific labels on all vehicles within a model type at all facilities where labels are affixed.

(3) For any vehicle for which a specific label is requested which has a fuel economy value at or below the minimum tax-free value, the following statement must appear on the specific label:

(Manufacturer's name) may have to pay IRS a Gas Guzzler Tax on this vehicle because of its low fuel economy unless the combination of mpg data from similar vehicles exceeds the minimum tax-free mpg.

(4)(i) At the time a general fuel economy value is determined for a model type, a manufacturer shall, except as provided in paragraph (a)(4)(ii) of this section, relabel, or cause to be relabeled, vehicles which (1) have not been delivered to the ultimate purchaser and (2) have a combined model type fuel economy value of 0.1 mpg or more below the lowest fuel economy value at which a Gas Guzzler Tax of $0 is to be assessed.

(ii) The manufacturer has the option of relabeling vehicles during the first five working days after the general label value is known.

(iii) For those vehicle model types which have been issued a specific label and are subsequently found to have tax liability, the manufacturer is responsible for the tax liability regardless of whether the vehicle has been sold or not or whether the vehicle has been relabeled or not.

(b) The manufacturer shall include the current range of fuel economy of comparable automobiles (as described in § 600.314) in the label of each vehicle manufactured more than fifteen calendar days after the current range is made available by the Administrator.

(1) Automobiles manufactured before a date sixteen calendar days after the initial label range is made available under § 600.314(d)(1) may be labeled without a range of fuel economy of comparable automobiles. In place of the range of fuel economy of comparable automobiles, the label must contain a statement indicating that, as of the date of production or importation of this automobile, no range of fuel economy of comparable automobiles was available.

(2) Automobiles manufactured more than fifteen calendar days after the initial or updated label range is made available under § 600.314(d) (1) or (2) will be labeled with the current range of fuel economy of comparable automobiles as approved for that general or specific label.

(c) The fuel economy label must be readily visible from the exterior of the automobile and remain affixed until the time the automobile is delivered to the actual custody and possession of the ultimate consumer.

(1) The fuel economy label must be located on the windshield, or on a side window. If the window is not large enough to contain both the Automobile Information Disclosure Act label and the fuel economy label, the manufacturer shall have the fuel economy label affixed on another window and as close as possible to the Automobile Information Disclosure Act label.

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(2) The fuel economy label information may be included with the Automobile Information Disclosure Act label if the prominence and legibility of the fuel economy label is maintained. For this purpose, all fuel economy label information must be placed on a separate section of the label and may not be intermixed with the Automobile Information Disclosure Act label information.

(3) The manufacturer shall have the fuel economy label affixed in a manner so that appearance and legibility are maintained until after the vehicle is delivered to the ultimate consumer.

[45 FR 51164, July 31, 1980]

§ 600.307-81 Format and contents of labels.

(a) Fuel economy labels must be rectangular in shape, contain the EPA and DOE logos and the title "Fuel Economy Rating," be printed in a color which contrasts with the paper color and in a type size that is easily readable and be large enough to allow inclusion of all required information.

(b) Fuel economy labels must contain the following information in the applicable format illustrated in Appendix VI or such other format as may be approved by the Administrator:

(1) The word "Model" or "Vehicle," as appropriate, for general and specific fuel economy labels, respectively, followed by the description of the labeled vehicle as described in the manner and degree of detail specified in § 600.308(a) or § 600.309(a), as applicable.

(2) The phrase "ESTIMATED MPG: For Comparisons" followed by the fuel economy estimate specified in § 600.308(b) for general labels or § 600.309(b) for specific labels, as applicable, and a paragraph, circumscribed by a rectangular box, reading as follows:

"THE ESTIMATED mileage for this model ('design' for specific labels), , is to be used to COMPARE cars (trucks or vehicles) of this model (design) with other cars (trucks or vehicles). Your own mileage may be poorer depending upon options, driving conditions, your driving habits and your car's (truck's or vehicle's) operating condition."

(3) The phrase "OTHER" (vehicle class as determined by the Administrator pursuant to § 600.315) MODELS ('SPECIAL VEHICLES' for special purpose vehicles):" followed by a paragraph circumscribed by a rectangular box reading as follows:

"The ESTIMATED MPG numbers for other similar sized cars (trucks or vehicles) range from to mpg (as of (date)). By comparison, the ESTIMATED MPG of this model (design) is . Use these numbers to compare different models. Consult the *Gas Mileage Guide* for further information."

(i) The fuel economy range required by this paragraph is calculated and supplied to the manufactured by the Administrator in accordance with § 600.311.

(ii) If no fuel economy range for other models has been supplied by the manufacturer by the Administrator at the time a vehicle is to be labeled or within the time constraints permitted by § 600.306(b), the statement required by paragraph (b)(3) of this section shall be replaced by the statement:

"A range of MPG numbers for other car (truck or vehicle) models of similar size was not available when this car (truck or vehicle) was labeled."

(4) The phrase "annual fuel cost:" followed by the annual fuel cost and the phrase "based on mpg, miles per year, cents (dollars)/gallon."

(i) The annual fuel cost, average miles driven per year, and cost of fuel will be calculated and supplied by the Administrator in accordance with § 600.308(c) for general labels or § 600.309(c), for specific labels, as applicable.

(ii) The mpg used in determining annual fuel cost is that given in paragraph (b)(2) of this section.

(5) The paragraph "Ask the dealer for the FREE 1981 GAS MILEAGE GUIDE to compare the Estimated MPG of other cars (trucks or vehicles). It will tell you how to use these numbers."

(6) For general labels for passenger automobile model types requiring a

tax statement under § 600.513, the phrase "A Gas Guzzler Tax: of $ has been imposed on this vehicle. The tax is administered by the Internal Revenue Service. See the *Gas Mileage Guide* for details."

(i) The tax value required by this paragraph shall be that indicated in § 600.513 and shall be based on the combined fuel economy value for the model type calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg.

(c) The fuel economy estimate required by paragraph (b)(2) of this section shall be highlighted by being in type no less than four times the size of the next largest print on the label (excluding the title and logos) or by such other means as may be approved by the Administrator.

[45 FR 51165, July 31, 1980]

§ 600.308-79 General label contents.

(a) The vehicle description to be used on general labels shall include the following:

(1) Model year;

(2) Vehicle car line;

(3) Engine displacement, in cubic inches, cubic centimeters, or liters whichever is consistent with the customary description of that engine;

(4) Number of engine cylinders;

(5) Transmission class;

(6) Catalyst usage, if necessary to distinguish otherwise identical model type;

(7) Fuel metering system, including number of carburetor barrels, if applicable; and

(8) California emission control system usage, if applicable and if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states.

(b) The "Estimated MPG" to be used on general labels shall be the city fuel economy value calculated in § 600.207(b)(3) and rounded to the nearest whole mile per gallon.

(c) The annual fuel cost estimate for operating an automobile included in a model type will be computed by the Administrator by using values for the fuel cost per gallon and average annual mileage, predetermined by the Administrator, and the fuel economy determined in paragraph (b) of this section.

(1) The annual fuel cost estimate for a model type is computed by multiplying:

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the fuel economy value determined in paragraph (b) of this section for a model type (expressed in miles per gallon rounded to the nearest whole mile per gallon).

(2) The product computed in (c)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on general labels for that model type.

[43 FR 26725, June 22, 1978]

§ 600.309-79 Specific label contents.

(a) The vehicle description to be used on specific labels shall include the following:

(1) Model year;

(2) Vehicle car line;

(3) Engine displacement, in cubic centimeters, or liters, whichever is consistent with the customary description of that engine;

(4) Number of engine cylinders;

(5) Transmission class;

(6) Catalyst usage, if so equipped;

(7) Fuel metering system, including number of carburetor barrels, if applicable;

(8) Inertia weight class;

(9) Axle ratio;

(10) Other engine or vehicle parameters; and

(11) California emission control system usage, where applicable, and if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states.

(b) The "Estimated MPG" to be used on specific labels shall be the city fuel economy value calculated in

§ 600.206(a) (1) or (2) and rounded to the nearest whole mile per gallon.

(c) The annual fuel cost estimate for operating an automobile included in a vehicle configuration will be computed by the Administrator by using values for the fuel cost per gallon and average annual mileage and the fuel economy determined in paragraph (b) of this section.

(1) The annual fuel cost estimate for a vehicle configuration is computed by multiplying:

(i) The annual fuel cost per gallon (as obtained by the Administrator from the FEA Administrator), expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage (as obtained by the Administrator from the Secretary), expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallon per mile, of the fuel economy value determined in paragraph (b) of this section for a vehicle configuration (expressed in miles per gallon rounded to the nearest whole mile per gallon).

(2) The product computed in (c)(1) of this section and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on specific labels for that vehicle configuration.

[43 FR 26725, June 22, 1978]

§ 600.310-77 Labeling of high altitude vehicles.

(a) The Administrator may approve, at the request of the manufacturer, specific labels for high altitude vehicles according to § 600.309.

(b) A high altitude vehicle may be labeled with an approved general or specific label by a manufacturer without regard to type of label, general or specific, used at low altitude for that model type or vehicle configuration.

§ 600.311-79 Range of fuel economy for comparable automobiles.

(a) The Administrator will determine the range of fuel economy values for each class of comparable automobiles.

(1) The range of fuel economy values within a class is the maximum "Estimated MPG" and the minimum "Estimated MPG" value for all general labels as determined in § 600.308(b) regardless of manufacturer.

(2) If the Administrator determines that automobiles intended for sale in California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will compute separate ranges of fuel economy values for each class of automobiles for California and for the other states.

(3) For high altitude vehicles determined under § 600.310, both general and specific labels will contain the range of comparable fuel economy computed in this paragraph.

(4) The range of comparable fuel economy values for a class of automobiles is derived from the latest available data approved by the Administrator for that class of automobiles.

(b) The manufacturer shall include the range of fuel economy determined by the Administrator in paragraph (a) of this section, on each label affixed to an automobile within that class except as provided in § 600.306.

[43 FR 26725, June 22, 1978]

§ 600.312-79 Approval of labels.

All fuel economy values, fuel cost estimates, label formats, and other information pertaining to the fuel economy label must be approved by the Administrator before a label is affixed to the vehicle.

(a) The manufacturer shall submit for approval by the Administrator each typical label format exemplifying the intended representation of all information required on the fuel economy label as well as the size and color of print, and paper, and spacing and location of all printed information. After approval by the Administrator, the manufacturer may not change the label except as required for proper vehicle description, fuel economy values, and estimated annual fuel costs. Where the fuel economy label is incorporated with the Automobile Information Disclosure Act label, the above requirements pertain to that section of the label reserved for fuel economy labeling.

(b) All vehicle descriptions, fuel economy values and annual fuel cost estimates intended for use on general and specific labels must be approved in advance by the Administrator. Fuel economy values are computed according to Subpart C of this part from approved vehicle fuel economy results as determined under § 600.008.

[42 FR 45670, Sept. 12, 1977]

§ 600.313-79 Timetable for data and information submittal and review.

(a) The Administrator will notify the manufacturer of the classification of each of the manufacturer's car lines after the manufacturer makes a request for such determination.

(b) Each fuel economy label format which the manufacturer intends to use must be approved by the Administrator before the manufacturer requests the Administrator to determine fuel economy values for use on that type of label. For example, a California general label format must be approved by the Administrator before the manufacturer requests California general label fuel economy values.

(c) If a manufacturer requests and submits sufficient information, the Administrator will determine, according to Subpart C, general label or specific label fuel economy values based upon information submitted by the manufacturer.

(1) A manufacturer must submit sufficient information to determine general label fuel economy values within the following time constraints:

(i) For model types initially offered for sale on or before the date of the availability of the initial range of fuel economy values of comparable automobiles, the submission must be made prior to the date established by the Administrator.

(ii) For model types initially offered for sale after the date of the availability of the initial range of fuel economy values of comparable automobiles, the submission must be made no later than thirty calendar days before the date that the model is initially offered for sale.

(2) As of the date of the request, the manufacturer may not submit additional information pertaining to this request except as required by the Administrator.

(3) After receipt of a manufacturer's request for computation of label values, the Administrator will review, according to § 600.008, the fuel economy submission received from the manufacturer and notify the manufacturer of approval or request further data, information, or vehicles in accordance with the approval procedure specified in Subpart A.

(4) After receipt of a manufacturer's data, information, or vehicles in response to paragraph (c)(3), the Administrator will conduct any testing and complete data review required under paragraph (c)(3), and notify the manufacturer of the results of this testing and review.

(5) After completion of any testing or review of the data which satisfy the requirements of paragraph (c)(3), the Administrator will provide the manufacturer with general label and/or specific label (as requested under this paragraph) fuel economy values, annual fuel cost estimates, and a range of fuel economy of comparable automobiles (when a range is available) as calculated from approved data. After receipt of approved fuel economy label values, the manufacturer may use these data in the labeling of his automobiles.

(6) The manufacturer should submit any request for approval of data in response to paragraph (c)(1)(i) at least 25 working days before he desires the Administrator's response. This should allow the Administrator sufficient time to conduct any additional testing required.

(d) The manufacturer shall notify the Administrator of the date that each model type will initially be offered for sale.

[43 FR 52929, Nov. 14, 1978]

§ 600.314-77 Updating fuel economy, annual fuel cost, and range of fuel economy for comparable automobiles.

(a) After the Administrator approves general label fuel economy values for a model type, those values will remain in effect for that model type for the remainder of the model year.

(b) After the Administrator approves specific label fuel economy values for a vehicle configuration, those values will remain in effect for that vehicle configuration for the remainder of the model year.

(c) Estimated annual fuel cost as determined in § 600.206 for specific labeled automobiles and in § 600.207 for general labeled automobiles incorporates factors for average annual miles driven and cost per gallon of fuel.

(1) These factors are determined by the Administrator early in the model year.

(2) These factors do not change during the model year.

(d) The Administrator will compute the range of fuel economy of comparable automobiles from the latest approved fuel economy values available at the time of label approval. Additionally, the Administrator will update the range of fuel economy of comparable automobiles for previously approved labels.

(1) The Administrator will initially make available a range of fuel economy of comparable automobiles for all approved general and specific labels in each class. The range will be made available on a date that coincides as closely as possible to the date of the general model year introduction for the industry.

(2) The Administrator will make available an updated range of fuel economy of comparable automobiles for all approved general and specific labels at any other appropriate date during the model year.

(3) The Administrator will communicate to the affected parties the dates referred to in paragraphs (d) (1) and (2) of this section.

§ 600.316-78 Multistage manufacture.

Where more than one person is the manufacturer of a vehicle, the final stage vehicle manufacturer (as defined in 49 CFR 549.3) is treated as the manufacturer for purposes of compliance with this subpart.

[42 FR 45672, Sept. 12, 1977]

Subpart E—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Dealer Availability of Fuel Economy Information

SOURCE: 41 FR 49764, Nov. 10, 1976, unless otherwise noted.

§ 600.401-77 General applicability.

The provisions of this subpart are applicable to 1977 and later model year automobiles.

§ 600.402-77 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.403-77 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.404-77 Section numbering, construction.

The section numbering procedure specified in § 600.004 applies to this subpart.

§ 600.405-77 Dealer requirements.

(a) Each dealer shall prominently display at each location where new automobiles are offered for sale booklets containing the information specified in § 600.407. The dealer shall provide these booklets without charge and in sufficient quantity to be available for retention by each prospective purchaser upon his request. The dealer will be expected to make these booklets available as soon as they are received by the dealer, but in no case later than 15 working days after notification is given of booklet availability.

(b) The dealer shall display these booklets in the same manner and in each location used to display brochures describing the automobiles offered for sale by the dealer. The display shall include information that similar booklets containing the EPA fuel economy information are also available through the mail by writing to Fuel Economy, Pueblo, California 81009.

(c) The dealer shall display the booklet applicable to each model year automobile offered for sale at the location. If, as described in § 600.406, a regional edition of the booklet is prepared for California automobiles:

(1) Each dealer who offers automobiles for sale at a location within the State of California shall display the California regional edition of the booklet.

(2) Each dealer who offers automobiles for sale at locations outside the State of California, and expects that at least 50 percent of the automobiles eventually sold at the location during the model year will be California configurations, shall display the California regional edition of the booklet. These dealers may also display the national edition of the booklet provided both editions are displayed with equal prominence.

§ 600.406-77 [Reserved]

§ 600.407-77 Booklets displayed by dealers.

(a) Booklets displayed by dealers in order to fulfill the obligations of § 600.405 may be either the Gas Mileage Guide published by the FEA Administrator or a booklet approved by the Administrator of EPA containing the same information, format, and order as the booklet published by the FEA Administrator.

(b) The booklet may highlight the dealer's product line by contrasting color of ink or boldface type and may include other supplemental information regarding the dealer's product line subject to approval by the Administrator.

(c) A manufacturer's name and logo or a dealer's name and address or both may appear on the back cover of the booklet.

Subpart F—Fuel Economy Regulations for Model Year 1978 Passenger Automobiles and for 1979 and Later Model Year Automobiles (Light Trucks and Passenger Automobiles)—Procedures for Determining Manufacturer's Average Fuel Economy

AUTHORITY: Sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2001, 2003, 2005, 2006).

SOURCE: 42 FR 45662, Sept. 12, 1977, unless otherwise noted.

§ 600.501-79 General applicability.

The provisions of this subpart are applicable to 1979 and later model year automobiles (passenger automobiles and light trucks).

[43 FR 39374, Sept. 5, 1978]

§ 600.501-81 General applicability.

The provisions of this subpart are applicable to 1981 and later model year passenger automobiles (passenger automobiles and light trucks). This rule exempts manufacturers who produce only electric vehicles from complying with the requirements to supply test data and sale projections.

[45 FR 49262, July 24, 1980]

§ 600.502-79 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.502-78 remain effective except that provision (a)(2)(ii) is hereby superseded. The definitions in § 600.002 also apply to this subpart.

(1) "Declared value" of imported components shall be the value at which components are declared by the importer to the U.S. Customs Service at the date of entry into the customs territory of the United States, or, with respect to imports into Canada, the declared value of such components as if they were declared as imports into the United States at the date of entry into Canada.

(2) "Cost of production" of a carline shall mean the aggregate of the products of:

(i) The average U.S. dealer wholesale price for such carline as computed from each official dealer price list effective during the course of a model year, and

(ii) The number of automobiles within the carline produced during the part of the model year that the price list was in effect.

[43 FR 39374, Sept. 5, 1978]

§ 600.502-81 Definitions.

(a) The following definitions apply beginning with the 1979 model year. The definitions in § 600.502-78 remain effective except that provision (a)(2)(ii) is hereby superseded. The definitions in § 600.002 also apply to this subpart.

(1) "Declared value" of imported components shall be the value at which components are declared by the importer to the U.S. Customs Service at the date of entry into the customs territory of the United States, or with respect to imports into Canada, the declared value of such components as if they were declared as imports into the United States at the date of entry into Canada.

(2) "Cost of production" of a car line shall mean the aggregate of the products of:

(i) The average U.S. dealer wholesale price for such car line as computed from each official dealer price list effective during the course of a model year, and

(ii) The number of automobiles within the car line produced during the part of the model year that the price list was in effect.

(3) "Equivalent petroleum-based fuel economy value" means a number which represents the average number of miles traveled by an electric vehicle per gallon of gasoline.

[45 FR 49262, July 24, 1980]

§ 600.503-78 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.504-78 Section numbering, construction.

The section numbering procedure set forth in § 600.004 applies to this subpart.

§ 600.505-78 Record keeping.

The record keeping procedure set forth in § 600.005 applies to this subpart.

§ 600.506-79 Preliminary determination of manufacturer's average.

(a) The manufacturer shall submit, for approval by the Administrator, a determination of his preliminary average fuel economy value.

(1) The average must be submitted within 10 days after the date of the availability of the initial range of fuel economy values of comparable automobiles (ref § 600.314(d)(1) or within 30 days after the date the manufacturer's first model type is initially offered for sale, whichever is later.

(2) The deadline for submission of the preliminary average may be waived upon petition by the manufacturer to the Administrator if the Administrator finds good cause. The Administrator will set a new reporting date if a waiver is granted.

(b) The preliminary average fuel economy value will be calculated according to the procedures in § 600.510 except that:

(1) Sales projections will be used for the calculations in place of the production values, and must be updated at the time of the preliminary calculation.

(2) The fuel economy data used in the calculation shall be that approved by the Administrator as of the date of the preliminary average calculations including:

(i) All fuel economy data from original certification vehicles and fuel economy data vehicles as required by § 600.207,

(ii) Fuel economy data from all vehicles tested for running changes approved under §§ 86.079-32, 86.079-33 or 86.079-34,

(iii) Fuel economy data required by paragraph (d), and

(iv) Other fuel economy data accepted by the Administrator under Subpart A of this part.

(c) Minimum data requirements will be established under paragraph (d) of this section for each base level with a sales fraction of 0.0100 or greater (known as a significant base level).

(1) The sales to be used in this determination are those in paragraph (b)(1) of this section.

(2) For the purposes of this section, the sales fraction for a base level shall be the quotient (rounded to the nearest 0.0001), of the projected sales of passenger automobiles (where projected sales are calculated according to § 600.511), nonpassenger automobiles, or category of nonpassenger automobiles, as appropriate, except that projected sales are used in place of production values.

(d) For each significant base level identified in paragraph (c) of this section the manufacturer shall submit prior to the submission of the preliminary calculation, fuel economy data for those vehicle configurations, taken in order of decreasing sales (according to the projection submitted in paragraph (b)(1) of this section, whose sales total a minimum of 90 percent of the sales of that base level. For all other base levels, the minimum data requirements of § 600.207(a)(3)(iii) must be met.

(e) All fuel economy data submitted under this subpart must:

(1) Be determined by the test procedures specified in Subpart B or an approved analytical method as permitted under § 600.006(e), and

(2) Be accepted by the Administrator under the requirements of Subpart A.

(f) *For nonpassenger automobiles,* the Administrator may require additional testing to be conducted in a nonpassenger automobile base level if he determines that the vehicle configurations comprising that base level can reasonably be expected to exhibit an unacceptably large range in combined fuel economy. The Administrator will make that determination based upon the data submitted at the time of the preliminary calculation

[43 FR 52931, Nov. 14, 1978]

§ 600.506-81 Preliminary determination of manufacturer's average.

(a) The manufacturer shall submit, for approval by the Administrator, a determination of his preliminary average fuel economy value.

(1) The average must be submitted within 10 days after the date of the availability of the initial range of fuel economy values of comparable automobiles (Ref: § 600.314(d)(1)) or within 30 days after the date the manufacturer's first model type is initially offered for sale, whichever is later.

(2) The deadline for submission of the preliminary average may be waived upon petition by the manufacturer to the Administrator if the Administrator finds good cause. The Administrator will set a new reporting date if a waiver is granted.

(b) The preliminary average fuel economy value will be calculated according to the procedures in § 600.510 except that:

(1) Sales projections will be used for the calculations in place of the production values, and must be updated at the time of the preliminary calculation.

(2) The fuel economy data used in the calculation shall be those approved by the Administrator as of the date of the preliminary average calculation including:

(i) All fuel economy data from the original certification vehicles, fuel economy data vehicles, and equivalent fuel economy electric vehicle data as required by § 600.207,

(ii) Fuel economy data from all vehicles tested for running changes approved under §§ 86.079-32, 86.079-33, or 86.079-34,

(iii) Fuel economy data required by paragraph (d) of this section, and

(iv) Other fuel economy data accepted by the Administrator under Subpart A of this part.

(c) Minimum data requirements will be established under paragraph (d) of this section for each base level with a sales fraction of 0.0100 or greater (known as a significant base level).

(1) The sales to be used in this determination are those in paragraph (b)(1) of this section.

(2) For the purposes of this section, the sales fraction for a base level shall be the quotient (rounded to the nearest 0.0001) of the projected sales of passenger automobiles (where projected sales are calculated according to § 600.511), nonpassenger automobiles, or category of nonpassenger automobiles, as appropriate, except that projected sales are used in place of production values.

(d) For each significant base level identified in paragraph (c) of this section, the manufacturer shall submit, prior to the submission of the preliminary calculation, fuel economy data for those vehicle configurations, taken in order of decreasing sales (according to the projection submitted in paragraph (b)(1) of this section) whose sales total a minimum of 90 percent of the sales of that base level. For all other base levels, the minimum data requirements of § 600.207(a)(3)(iii) must be met.

(e) All fuel economy data submitted under this subpart must:

(1) Be determined by the test procedures specified in Subpart B or an approved analytical method as permitted under § 600.006(e), and

(2) Be accepted by the Administrator under the requirements of Subpart A.

(f) For nonpassenger automobiles, the Administrator may require additional testing to be conducted in a nonpassenger automobile base level if he determines that the vehicle configurations comprising that base level can reasonably be expected to exhibit an unacceptably large range in combined fuel economy. The Administrator will make that determination based upon the data submitted at the time of the preliminary calculation.

[45 FR 49262, July 24, 1980]

§ 600.507-80 Running change data requirements.

(a) The manufacturer will be required to submit additional running change fuel economy data for any running change approved under §§ 86.079-32, 86.079-33 or 86.079-34 which creates a new vehicle configuration in a significant base level originally identified for minimum data under § 600.506(c), or subsequently identified in § 600.508(b), unless exempted by the Administrator.

(1) The manufacturer may petition the Administrator for an exemption from the requirement to submit additional running change fuel economy data.

(2) If the exemption is not granted, the Administrator will notify the manufacturer of the denial and the manufacturer shall submit running change fuel economy data as prescribed in this section.

(b) The additional fuel economy data required for a running change in paragraph (a) of this section will be determined based on the sales of the vehicle configurations in the affected base level as updated and submitted to the Administrator at the time of running change approval.

(1) Within each base level identified in paragraph (a) of this section, fuel economy data shall be submitted for the new vehicle configuration, created by the running change, with the greatest projected sales. Unless that configuration was specified and tested under §§ 86.079-32, 86.079-33 or 86.079-34, the Administrator will specify the road load horsepower and test weight for the test vehicle.

(2) Fuel economy data required by this section shall be submitted no later than 30 days after the manufacturer receives approval of the running change for those running changes approved after the calculation of the manufacturer's preliminary average, and no later than 90 days after the calculation of the preliminary average for those running changes approved prior to the calculation of the preliminary average.

(c) Any manufacturer required to submit data under this section as a result of an addition of a base level under § 600.508, must submit data on any running change identified by paragraph (a) of this section.

(1) Data identified by paragraph (a) of this section which were approved prior to the date of approval to add the base level which caused the recalculation to the preliminary average fuel economy value according to § 600.508, must meet the requirements of paragraph (b) of this section, except that the data may be submitted at any time before the final calculation of the manufacturer's average fuel economy value in § 600.510.

(2) Any running change identified by paragraph (a) of this section approved on or after that date, must be submitted according to paragraph (b)(2) of this section.

[42 FR 45662, Sept. 12, 1977, as amended at 43 FR 52932, Nov. 14, 1978]

§ 600.508-78 Addition of a base level—data requirements.

(a) Any manufacturer who adds a base level to his product line at any time after the preliminary determination of his average fuel economy value in § 600.506, shall submit in accordance with the requirements of § 600.207, fuel economy and sales projection data for such base level.

(b) If a new base level being added has a sales fraction of 0.0100 or greater (as defined in § 600.506(c)(2)) using sales updated as of the date of receipt of approval to add the base level, the manufacturer shall, within 30 days of receipt of the approval:

(1) Submit to the Administrator the minimum data required in accordance with § 600.506(c), and then

(2) Recalculate and submit to the Administrator fuel economy values in accordance with procedures in § 600.506 except that all fuel economy data approved by the Administrator to date shall be used.

(c) If the total projected sales, updated as of the date of approval to add the latest base level, of all base levels added since the initial calculation in § 600.506 is equal to a sales fraction of 0.0300 or greater (as defined in § 600.506(c)(2)), the manufacturer shall recalculate his average as in paragraph (b)(2) of this section.

(d) Any manufacturer required under paragraph (b) or (c) of this section, to perform a recalculation may be required by the Administrator to supply any additional data required under § 600.507 regardless of any exemption granted under § 600.507(a), based upon the results of that recalculation.

[42 FR 45662, Sept. 12, 1977, as amended at 43 FR 52932, Nov. 14, 1978]

§ 600.509-78 Voluntary submission of additional data.

(a) The manufacturer may, at his option, submit data in addition to the data required by the Administrator.

(1) Additional fuel economy data may be submitted by the manufacturer for any vehicle configuration which is to be tested as required in § 600.506 or § 600.507 or for which fuel economy data were previously submitted under paragraph (a) (2) of this section.

(2) Within a base level, additional fuel economy data may be submitted by the manufacturer for any vehicle configuration which is not required to be tested by § 600.506 or § 600.507. Additional data which is submitted within a base level after the calculation of the manufacturer's preliminary average fuel economy must be submitted in rank order such that data is first submitted for all configurations with a higher sales fraction (as defined in § 600.506(c)(2)).

§ 600.510-80 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles that are domestically manufactured as defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that are not domestically manufactured as defined in § 600.511(d)(2).

(3) An average fuel economy calculation will be made either for all nonpassenger automobiles or for each category of nonpassenger automobile (four-wheel drive general utility vehicles and all other nonpassenger automobiles) in accordance with the preference indicated by the manufacturer in § 600.512.

(4) An average fuel economy calculation will be made for the category of light trucks which are defined in § 600.511(e)(1) and have four-wheel drive.

(5) An average fuel economy calculation will be made for the category of light trucks which are defined in § 600.511(e)(2) and have two-wheel drive.

(6) An average fuel economy calculation will be made for the category of light trucks which are defined in § 600.511(c)(2) and have four-wheel drive.

(7) An average fuel economy calculation will be made for the category of light trucks which are limited product line light trucks, as defined by the Secretary of Transportation at 49 CFR 533.4.

(b) For the purpose of calculating average fuel economy under paragraphs (c), (d), and (e) of this section:

(1) All fuel economy data submitted under § 600.512 must be used.

(2) Fuel economy will be calculated for each model type according to § 600.207 except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with carlines that are:

(A) Domestically produced, and

(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel powered model types will be multiplied by the factor 1.0 to correct gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg;

(v) At the manufacturer's option, those vehicle configurations that are self-compensating to altitude changes may be separated by sales into high-altitude sales categories and low-altitude sales categories. These separate sales categories may then be treated (only for the purpose of this section) as separate configurations in accordance with the procedures of paragraph § 600.207(a)(3)(ii), and

(vi) If a model type is comprised of some vehicles that are four-wheel drive general utility vehicles and some that are not as defined at 42 CFR 553.4 by the Secretary of Transportation, and if the manufacturer has indicated in § 600.512(c)(8) that average fuel economy will be calculated separately for four-wheel drive general utility vehicles, then separate model type calculations will be made for those vehicles that are not.

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with carlines that are:

(A) Domestically produced, and

(B) Nondomestically produced and imported;

(ii) Model year production data, as required by this subpart will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) For each category identified in § 600.510(a), average fuel economy will be calculated individually as follows:

(1) Divide the total production volume of that category of automobiles by

(2) A sum of terms, each of which corresponds to a model type within that category of automobiles and is a fraction determined by dividing

(i) The number of automobiles of that model type produced by the manufacturer in the model year by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

[42 FR 45662, Sept. 12, 1977, as amended at 43 FR 39375, Sept. 5, 1978; 44 FR 60287, Oct. 19, 1979; 46 FR 23057, Apr. 23, 1981]

§ 600.511-80 Determination of domestic production.

(a) An automobile shall be considered domestically produced in any model year if it is included within a domestically produced car line (car line includes station wagons for purposes of this paragraph), unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of the model year. For purposes of this paragraph, a car line will be considered domestically produced if the following ratio is less than 0.25:

(1) The sum of the declared value, as defined in § 600.502, of all of the imported components installed or included on automobiles produced within such a car line within a given model year plus the cost of transportation and insuring such components to the United States or Canadian port of entry but exclusive of any customs duty, divided by

(2) The cost of production, as defined in § 600.502, of automobiles within such car line.

(b) For the purposes of calculations under this subpart with respect to automobiles manufactured during any model year,

(1) An average exchange rate for the country of origin of each imported component shall be used that is calculated by taking the mean of the ex-

change rates in effect at the end of each quarter set by the Federal Reserve Bank of New York for twelve calendar quarters prior to and including the calendar quarter ending one year prior to the date that the manufacturer submits the calculation of the preliminary average for such model year. Such rate, once calculated, shall be in effect for the duration of the model year. Upon petition of a manufacturer, the Administrator may permit the use of a different exchange rate where appropriate and necessary.

(2) Components shall be considered imported unless they are either:

(i) Wholly the growth, product, or manufacture of the United States and/or Canada, or

(ii) Substantially transformed in the United States or Canada into a new and different article of commerce.

(c) If it is determined by the Administrator at some date later than the date of entry that the declared value of such imported components did not represent fair market value at the date of entry, through U.S. Bureau of Customs appraisals, the Administrator may review the determination made pursuant to paragraph (a) of this section as to whether the pertinent car lines which utilize such components were correctly included within the manufaturer's domestically-produced or foreign-produced fleets. If such a determination was in error due to misrepresentation of the valuation of imported components at the date of entry, the Administrator may recalculate the manufacturer's average for the affected model year, according to § 600.510, to reflect the correct valuation of such imported components in each affected car line.

(d) In calculating average fuel economy under § 600.510(c), the Administrator will separate the total number of passenger automobiles produced by a manufacturer into the following two categories:

(1) Passenger automobiles which are domestically produced by the manufacturer,

(2) Passenger automobiles which are not domestically produced and which are imported by the manufacturer.

(e) In calculating average fuel economy under § 600.510(c), the Administrator will separate the total number of light trucks produced by a manufacturer into the following two categories:

(1) Light trucks which are domestically produced by the manufacturer.

(2) Light trucks which are not domestically produced and which are imported by the manufacturer.

[42 FR 45662, Sept. 12, 1977, as amended at 43 FR 39376, Sept. 5, 1978]

§ 600.512-80 Model year report.

(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.

(b) (1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in § 86.078-37 for the final production quarter.

(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient time for the manufacturer to provide all additional data required as determined in either §§ 600.506, 600.507, or 600.508, the Administrator shall establish a date by which the model year report must be submitted.

(3) Separate reports shall be submitted for passenger automobiles and light trucks (as identified in § 600.510).

(c) The model year report must include the following information:

(1) All fuel economy data used in the preliminary calculation and subsequently required by the Administrator either under §§ 600.506, 600.507, or 600.508.

(2) All fuel economy data for certification vehicles, and for vehicles tested for running changes approved under paragraph 86.078-33.

(3) Any additional fuel economy data submitted by the manufacturer under § 600.509.

(4) A fuel economy value for each model type of the manufacturer's

product line calculated according to § 600.510.

(5) The manufacturer's average fuel economy value calculated according to § 600.510.

(6) A listing of both domestically and nondomestically produced carlines as determined in § 600.511 and the cost information upon which the determination was made.

(7) Production data, the authenticity and accuracy of which shall be attested to by the corporation, and shall bear the signature of the chief executive officer.

[43 FR 39376, Sept. 5, 1978]

§ 600.513-81 Gas Guzzler Tax.

(a)(1) The provisions of this section do not apply to passenger automobiles exempted from Gas Guzzler Tax assessments by the Energy Tax Act of 1978 and regulations promulgated thereunder by the Internal Revenue Service. *However,* the manufacturer of an exempted passenger automobile may, in his discretion, label such vehicles in accordance with the provisions of this section.

(2) Vehicles produced by a manufacturer that has been granted an alternate tax rate schedule by the Secretary of the Treasury shall be labeled with the applicable tax determined under any such alternate tax schedule.

(b) *This paragraph applies to 1981 model year vehicles.* (1) Passenger automobiles with a combined general label model type fuel economy value of less than 17.0 mpg, calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg, shall carry a Gas Guzzler Tax statement pursuant to Section 403 of the National Energy Conservation Policy Act.

(2) For passenger automobiles with a combined general label model type fuel economy value of:

(i) At least 17.0 mpg, no Gas Guzzler Tax statement is required.

(ii) At least 16.0 mpg, but less than 17.0 mpg, the Gas Guzzler Tax statement shall show a tax of $200.

(iii) At least 15.0 mpg, but less than 16.0 mpg, the Gas Guzzler Tax statement shall show a tax of $350.

(iv) At least 14.0 mpg, but less than 15.0 mpg, the Gas Guzzler Tax statement shall show a tax of $450.

(v) At least 13.0 mpg, but less than 14.0 mpg, the Gas Guzzler Tax statement shall show a tax of $550.

(vi) Less than 13.0 mpg, the Gas Guzzler Tax statement shall show a tax of $650.

This paragraph applies to 1982 model year vehicles. (1) Passenger automobiles with a combined general label model type fuel economy value of less than 18.5 mpg, calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg, shall carry a Gas Guzzler Tax statement pursuant to Section 403 of the National Energy Conservation Policy Act.

(2) For passenger automobiles with a combined general label model type fuel economy value of:

(i) At least 18.5 mpg, no Gas Guzzler Tax statement is required.

(ii) At least 17.5 mpg, but less than 18.5 mpg, the Gas Guzzler Tax statement shall show a tax of $200.

(iii) At least 16.5 mpg, but less than 17.5 mpg, the Gas Guzzler Tax statement shall show a tax of $350.

(iv) At least 15.5 mpg, but less than 16.5 mpg, the Gas Guzzler Tax statement shall show a tax of $450.

(v) At least 14.5 mpg, but less than 15.5 mpg, the Gas Guzzler Tax statement shall show a tax of $600.

(vi) At least 13.5 mpg, but less than 14.5 mpg, the Gas Guzzler Tax statement shall show a tax of $750.

(vii) At least 12.5 mpg, but less than 13.5 mpg, the Gas Guzzler Tax statement shall show a tax of $950.

(viii) Less than 12.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,200.

(c) *This paragraph applies to 1983 model year vehicles.* (1) Passenger automobiles with a combined general label model type fuel economy value of less than 19.0 mpg, calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg, shall carry a Gas Guzzler Tax statement pursuant to Section 403 of the National Energy Conservation Policy Act.

(2) For passenger automobiles with a combined general label model type fuel economy value of:

(i) At least 19.0 mpg, no Gas Guzzler Tax statement is required.

(ii) At least 18.0 mpg, but less than 19.0 mpg, the Gas Guzzler Tax statement shall show a tax of $350.

(iii) At least 17.0 mpg, but less than 18.0 mpg, the Gas Guzzler Tax statement shall show a tax of $500.

(iv) At least 16.0 mpg, but less than 17.0 mpg, the Gas Guzzler Tax statement shall show a tax of $650.

(v) At least 15.0 mpg, but less than 16.0 mpg, the Gas Guzzler Tax statement shall show a tax of $800.

(vi) At least 14.0 mpg, but less than 15.0 mpg, the Gas Guzzler Tax statement shall show a tax of $1,000.

(vii) At least 13.0 mpg, but less than 14.0 mpg, the Gas Guzzler Tax statement shall show a tax of $1,250.

(viii) Less than 13.0 mpg, the Gas Guzzler Tax statement shall show a tax of $1,550.

(d) *This paragraph applies to 1984 model year vehicles.* (1) Passenger automobiles with a combined general label model type fuel economy value of less than 19.5 mpg, calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg, shall carry a Gas Guzzler Tax statement pursuant to Section 403 of the National Energy Conservation Policy Act.

(2) For passenger automobiles with a combined general label model type fuel economy value of:

(i) At least 19.5 mpg, no Gas Guzzler Tax statement is required.

(ii) At least 18.5 mpg, but less than 19.5 mpg, the Gas Guzzler Tax statement shall show a tax of $450.

(iii) At least 17.5 mpg, but less than 18.5 mpg, the Gas Guzzler Tax statement shall show a tax of $600.

(iv) At least 16.5 mpg, but less than 17.5 mpg, the Gas Guzzler Tax statement shall show a tax of $750.

(v) At least 15.5 mpg, but less than 16.5 mpg, the Gas Guzzler Tax statement shall show a tax of $950.

(vi) At least 14.5 mpg, but less than 15.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,150.

(vii) At least 13.5 mpg, but less than 14.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,450.

(viii) At least 12.5 mpg, but less than 13.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,750.

(ix) Less than 12.5 mpg, the Gas Guzzler Tax statement shall show a tax of $2,150.

(e) *This paragraph applies to 1985 model year vehicles.* (1) Passenger automobiles with a combined general label model type fuel economy value of less than 21.0 mpg, calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg, shall carry a Gas Guzzler Tax statement pursuant to Section 403 of the National Energy Conservation Policy Act.

(2) For passenger automobiles with a combined general label model type fuel economy value of:

(i) At least 21.0 mpg, no Gas Guzzler Tax statement is required.

(ii) At least 20.0 mpg, but less than 21.0 mpg, the Gas Guzzler Tax statement shall show a tax of $500.

(iii) At least 19.0 mpg, but less than 20.0 mpg, the Gas Guzzler Tax statement shall show a tax of $600.

(iv) At least 18.0 mpg, but less than 19.0 mpg, the Gas Guzzler Tax statement shall show a tax of $800.

(v) At least 17.0 mpg, but less than 18.0 mpg, the Gas Guzzler Tax statement shall show a tax of $1,000.

(vi) At least 16.0 mpg, but less than 17.0 mpg, the Gas Guzzler Tax statement shall show a tax of $1,200.

(vii) At least 15.0 mpg, but less than 16.0 mpg, the Gas Guzzler Tax statement shall show a tax of $1,500.

(viii) At least 14.0 mpg, but less than 15.0 mpg, the Gas Guzzler Tax statement shall show a tax of $1,800.

(ix) At least 13.0 mpg, but less than 14.0 mpg, the Gas Guzzler Tax statement shall show a tax of $2,200.

(x) Less than 13.0 mpg, the Gas Guzzler Tax statement shall show a tax of $2,650.

(f) *This paragraph applies to 1986 model year vehicles.* (1) Passenger automobiles with a combined general label model type fuel economy value of less than 22.5 mpg, calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg, are subject to a Gas Guzzler Tax statement pursuant to Section 403 of the National Energy Conservation Policy Act.

(2) For passenger automobiles with a combined general label model type fuel economy value of:

(i) At least 22.5 mpg, no Gas Guzzler Tax statement is required.

(ii) At least 21.5 mpg, but less than 22.5 mpg, the Gas Guzzler Tax statement shall show a tax of $500.

(iii) At least 20.5 mpg, but less than 21.5 mpg, the Gas Guzzler Tax statement shall show a tax of $650.

(iv) At least 19.5 mpg, but less than 20.5 mpg, the Gas Guzzler Tax statement shall show a tax of $850.

(v) At least 18.5 mpg, but less than 19.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,050.

(vi) At least 17.5 mpg, but less than 18.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,300.

(vii) At least 16.5 mpg, but less than 17.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,500.

(viii) At least 15.5 mpg, but less than 16.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,850.

(ix) At least 14.5 mpg, but less than 15.5 mpg, the Gas Guzzler Tax statement shall show a tax of $2,250.

(x) At least 13.5 mpg, but less than 14.5 mpg, the Gas Guzzler Tax statement shall show a tax of $2,700.

(xi) At least 12.5 mpg, but less than 13.5 mpg, the Gas Guzzler Tax statement shall show a tax of $3,200.

(xii) Less than 12.5 mpg, the Gas Guzzler Tax statement shall show a tax of $3,850.

(Title V of the Motor Vehicle information and Cost Savings Act, 15 U.S.C. 2001 et. seq., as amended by Section 403 of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3256)

[45 FR 51165, July 31, 1980]

APPENDIX I—HIGHWAY FUEL ECONOMY DRIVING SCHEDULE (APPLICABLE TO 1978 AND LATER MODEL YEAR AUTOMOBILES)

[SPEED (MPH) VS TIME (SEC)]

SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH
0	Sample On	50	38.6	100	48.5	150	44.1	200	43.4	250	48.0	300	33.4	350	59.0
1	0.0	51	39.3	101	48.8	151	44.3	201	43.2	251	48.0	301	35.6	351	58.9
2	0.0	52	40.0	102	49.1	152	44.4	202	43.2	252	48.0	302	37.5	352	58.8
3	2.0	53	40.7	103	49.2	153	44.6	203	43.1	253	48.1	303	39.1	353	58.6
4	4.9	54	41.4	104	49.1	154	44.7	204	43.0	254	48.2	304	40.2	354	58.4
5	8.1	55	42.2	105	49.1	155	44.9	205	43.0	255	48.2	305	41.1	355	58.2
6	11.3	56	42.9	106	49.0	156	45.2	206	43.1	256	48.1	306	41.8	356	58.1
7	14.5	57	43.5	107	49.0	157	45.7	207	43.4	257	48.6	307	42.4	357	58.0
8	17.3	58	44.0	108	49.1	158	45.9	208	43.9	258	48.9	308	42.8	358	57.9
9	19.6	59	44.3	109	49.2	159	46.3	209	44.0	259	49.1	309	43.3	359	57.6
10	21.8	60	44.5	110	49.3	160	46.8	210	43.5	260	49.1	310	43.8	360	57.4
11	24.0	61	44.8	111	49.4	161	46.9	211	42.6	261	49.1	311	44.3	361	57.2
12	25.8	62	44.9	112	49.5	162	47.0	212	41.5	262	49.1	312	44.7	362	57.1
13	27.1	63	45.0	113	49.5	163	47.1	213	40.7	263	49.1	313	45.0	363	57.0
14	28.0	64	45.1	114	49.5	164	47.6	214	40.0	264	49.0	314	45.2	364	57.0
15	29.0	65	45.4	115	49.4	165	47.9	215	40.0	265	48.9	315	45.4	365	56.9
16	30.0	66	45.7	116	49.1	166	48.0	216	40.3	266	48.2	316	45.5	366	56.9
17	30.7	67	46.0	117	48.9	167	48.0	217	41.0	267	47.7	317	45.8	367	56.9
18	31.5	68	46.3	118	48.6	168	47.9	218	42.0	268	47.5	318	46.0	368	57.0
19	32.2	69	46.5	119	48.4	169	47.8	219	42.7	269	47.2	319	46.1	369	57.0
20	32.9	70	46.8	120	48.1	170	47.3	220	43.1	270	46.7	320	46.5	370	57.0
21	33.5	71	46.9	121	47.7	171	46.7	221	43.2	271	46.2	321	46.8	371	57.0
22	34.1	72	47.0	122	47.4	172	46.2	222	43.4	272	46.0	322	47.1	372	57.0
23	34.6	73	47.1	123	47.3	173	45.9	223	43.9	273	45.8	323	47.7	373	57.0
24	34.9	74	47.2	124	47.5	174	45.7	224	44.3	274	45.6	324	48.3	374	57.0
25	35.1	75	47.3	125	47.8	175	45.5	225	44.7	275	45.4	325	49.0	375	57.0
26	35.7	76	47.2	126	47.9	176	45.4	226	45.1	276	45.2	326	49.7	376	57.0
27	35.9	77	47.1	127	48.0	177	45.3	227	45.4	277	45.0	327	50.3	377	56.9
28	35.8	78	47.0	128	47.9	178	45.0	228	45.8	278	44.7	328	51.0	378	56.8
29	35.3	79	46.9	129	47.9	179	44.0	229	46.5	279	44.5	329	51.7	379	56.5
30	34.9	80	46.9	130	47.9	180	43.1	230	46.9	280	44.2	330	52.4	380	56.2
31	34.5	81	46.9	131	48.0	181	42.2	231	47.2	281	43.5	331	53.1	381	56.0
32	34.6	82	47.0	132	48.0	182	41.5	232	47.4	282	42.8	332	53.8	382	56.0
33	34.8	83	47.1	133	48.0	183	41.5	233	47.3	283	42.0	333	54.5	383	56.0
34	35.1	84	47.1	134	47.9	184	42.1	234	47.3	284	40.1	334	55.2	384	56.1
35	35.7	85	47.2	135	47.3	185	42.9	235	47.2	285	38.6	335	55.8	385	56.4
36	36.1	86	47.1	136	46.0	186	43.5	236	47.2	286	37.5	336	56.4	386	56.7

APPENDIX I—HIGHWAY FUEL ECONOMY DRIVING SCHEDULE (APPLICABLE TO 1978 AND LATER MODEL YEAR AUTOMOBILES)—Continued

[SPEED (MPH) VS TIME (SEC)]

SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH
37	36.2	87	47.0	137	43.3	187	43.9	237	47.2	287	35.8	337	56.9	387	56.9
38	36.5	88	46.9	138	41.2	188	43.6	238	47.1	288	34.7	338	57.0	388	57.1
39	36.7	89	46.5	139	39.5	189	43.3	239	47.0	289	34.0	339	57.1	389	57.3
40	36.9	90	46.3	140	39.2	190	43.0	240	47.0	290	33.3	340	57.3	390	57.4
41	37.0	91	46.2	141	39.0	191	43.1	241	46.9	291	32.5	341	57.6	391	57.4
42	37.0	92	46.3	142	39.0	192	43.4	242	46.8	292	31.7	342	57.8	392	57.2
43	37.0	93	46.5	143	39.1	193	43.9	243	46.9	293	30.6	343	58.0	393	57.0
44	37.0	94	46.9	144	39.5	194	44.3	244	47.0	294	29.6	344	58.1	394	56.9
45	37.0	95	47.1	145	40.1	195	44.6	245	47.2	295	28.8	345	58.4	395	56.6
46	37.0	96	47.4	146	41.0	196	44.9	246	47.5	296	28.4	346	58.7	396	56.3
47	37.1	97	47.7	147	42.0	197	44.8	247	47.9	297	28.6	347	58.8	397	56.1
48	37.3	98	48.0	148	43.1	198	44.4	248	48.0	298	29.5	348	58.9	398	56.4
49	37.8	99	48.2	149	43.7	199	43.9	249	48.0	299	31.4	349	59.0	399	56.7

SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH
400	57.1	450	58.2	500	54.7	550	55.8	600	48.3	650	50.2	700	54.2	750	26.8
401	57.5	451	58.1	501	54.6	551	55.6	601	48.0	651	50.7	701	54.5	751	24.5
402	57.8	452	58.0	502	54.4	552	55.4	602	47.9	652	51.1	702	54.8	752	21.5
403	58.0	453	58.0	503	54.3	553	55.2	603	47.8	653	51.7	703	55.0	753	19.5
404	58.0	454	58.0	504	54.3	554	55.1	604	47.7	654	52.2	704	55.5	754	17.4
405	58.0	455	58.0	505	54.2	555	55.0	605	47.9	655	52.5	705	55.9	755	15.1
406	58.0	456	58.0	506	54.1	556	54.9	606	48.3	656	52.1	706	56.1	756	12.4
407	58.0	457	58.0	507	54.1	557	54.6	607	49.0	657	51.6	707	56.3	757	9.7
408	58.0	458	57.9	508	54.1	558	54.4	608	49.1	658	51.1	708	56.4	758	7.0
409	57.9	459	57.9	509	54.0	559	54.2	609	49.0	659	51.0	709	56.5	759	5.0
410	57.8	460	58.0	510	54.0	560	54.1	610	48.9	660	51.0	710	56.7	760	3.3
411	57.7	461	58.1	511	54.0	561	53.8	611	48.0	661	51.1	711	56.9	761	2.0
412	57.7	462	58.1	512	54.0	562	53.4	612	47.1	662	51.4	712	57.0	762	0.7
413	57.8	463	58.2	513	54.0	563	53.3	613	46.2	663	51.7	713	57.3	763	0.0
414	57.9	464	58.3	514	54.0	564	53.1	614	46.1	664	52.0	714	57.7	764	0.0
415	58.0	465	58.3	515	54.0	565	52.9	615	46.1	665	52.2	715	58.2	765	Sample Off
416	58.1	446	58.3	516	54.0	566	52.6	616	46.2	666	52.5	716	58.8		
417	58.4	467	58.2	517	54.1	567	52.4	617	46.9	667	52.8	717	59.1	Mon	Apr 22/74
418	58.9	468	58.1	518	54.2	568	52.2	618	47.8	668	52.7	718	59.2		
419	59.1	469	58.0	519	54.5	569	52.1	619	49.0	669	52.6	719	59.1		
420	59.4	470	57.8	520	54.8	570	52.0	620	49.7	670	52.3	720	58.8		
421	59.8	471	57.5	521	54.9	571	52.0	621	50.6	671	52.3	721	58.5		
422	59.9	472	57.1	522	55.0	572	52.0	622	51.5	672	52.4	722	58.1		
423	59.9	473	57.0	523	55.1	573	52.0	623	52.2	673	52.5	723	57.7		
424	59.8	474	56.6	524	55.2	574	52.1	624	52.7	674	52.7	724	57.3		
425	59.6	475	56.1	525	55.2	575	52.0	625	53.0	675	52.7	725	57.1		
426	59.4	476	56.0	526	55.3	576	52.0	626	53.6	676	52.4	726	56.8		
427	59.2	477	55.8	527	55.4	577	51.9	627	54.0	677	52.1	727	56.5		
428	59.1	478	55.5	528	55.5	578	51.6	628	54.1	678	51.7	728	56.2		
429	59.0	479	55.2	529	55.6	579	51.4	629	54.4	679	51.1	729	55.5		
430	58.9	480	55.1	530	55.7	580	51.1	630	54.7	680	50.5	730	54.6		
431	58.7	481	55.0	531	55.8	581	50.7	631	55.1	681	50.1	731	54.1		
432	58.6	482	54.9	532	55.9	582	50.3	632	55.4	682	49.8	732	53.7		
433	58.5	483	54.9	533	56.0	583	49.8	633	55.4	683	49.7	733	53.2		
434	58.4	484	54.9	534	56.0	584	49.3	634	55.0	684	49.6	734	52.9		
435	58.4	485	54.9	535	56.0	585	48.7	635	54.5	685	49.5	735	52.5		
436	58.3	486	54.9	536	56.0	586	48.2	6.36	53.6	686	49.5	736	52.0		
437	58.2	487	54.9	537	56.0	587	48.1	637	52.5	687	49.7	737	51.3		
438	58.1	488	55.0	538	56.0	588	48.0	638	50.2	688	50.0	738	50.5		
439	58.0	489	55.0	539	56.0	589	48.0	6.39	48.2	689	50.2	739	49.5		
440	57.9	490	55.0	540	56.0	590	48.1	640	46.5	690	50.6	740	48.5		
441	57.9	491	55.0	541	56.0	591	48.4	641	46.2	691	51.1	741	47.6		
442	57.9	492	55.0	542	56.0	592	48.9	642	46.0	692	51.6	742	46.8		
443	57.9	493	55.0	543	56.0	593	49.0	643	46.0	693	51.9	743	45.6		
444	57.9	494	55.1	544	56.0	594	49.1	644	46.3	694	52.0	744	44.2		
445	58.0	495	55.1	545	56.0	595	49.1	645	46.8	695	52.1	745	42.5		
446	58.1	496	55.0	546	56.0	596	49.0	646	47.5	696	52.4	746	39.2		
447	58.1	497	54.9	547	55.9	597	49.0	647	48.2	697	52.9	747	35.9		
448	58.2	498	54.9	548	55.9	598	48.9	648	48.8	698	53.3	748	32.6		

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SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH	SEC	MPH
449	58.2	499	54.8	549	55.9	599	48.6	649	49.5	699	53.7	749	29.3		

[42 FR 45667, Sept. 1977]

APPENDIX II—SAMPLE TEST VALUE CALCULATIONS

(APPLICABLE TO 1978 AND LATER MODEL YEAR AUTOMOBILES)

(a) Assume that a gasoline-fueled vehicle was tested by the Federal Emission Test Procedure and the following results were calculated:

$HC = 1.03$ grams/mile
$CO = 6.74$ grams/mile
$CO_2 = 785$ grams/mile

According to the procedure in § 600.113, the city fuel economy or MPG_c for the vehicle may be calculated by substituting the HC, CO, and CO_2 gram/mile values into the following equation.

$$MPG_c = \frac{2421}{(0.866 \times HC) + (0.429 \times CO) + (0.273 \times CO_2)}$$

$$= \frac{2421}{(0.866 \times 1.03) + (0.429 \times 6.74) + (0.273 \times 785)}$$

$$= \frac{2421}{218.1}$$

$$= 11.1 \text{ MPG}$$

(b) Assume that the same vehicle was tested by the Federal Highway Fuel Economy Test Procedure and a calculation similar to that shown in (a) resulted in a highway fuel economy or MPG_h of 18.6. According to the procedure in § 600.113, the combined fuel economy (called $MPG_{c/h}$) for the vehicle may be calculated by substituting the city and highway fuel economy values into the following equation:

$$MPG_{e/h} = \frac{1}{\frac{0.55}{MPG_e} + \frac{0.45}{MPG_h}}$$

$$= \frac{1}{\frac{0.55}{11.1} + \frac{0.45}{18.6}}$$

$$= \frac{1}{0.0737}$$

$$MPG_{e/h} = 13.6 \text{ MPG}$$

[42 45668, Sept. 12, 1977]

APPENDIX III—SAMPLE FUEL ECONOMY LABEL CALCULATION (1977 MODEL YEAR)

Suppose that a manufacturer called Mizer Motors has a product line composed of eight car lines. Of these eight, four are available with the 300 CID, 2 barrel, non-catalyst, 49-state engine. These four car lines are:

Ajax	Dodo
Boredom III	Castor (Station Wagon)

A car line is defined in Subpart A as a group of vehicles within a make or division which has a degree of commonality in construction. Car line does not consider any level of decor or opulence and is not generally distinguished by such characteristics as roofline, number of doors, seats, or windows. Station wagons and light duty trucks are, however, identified separately from the remainder of each car line. In other words, a Castor station wagon would be considered a different car line than the normal Castor car line made up of sedans, coupes, etc.

The engine considered here is defined as a basic engine in Subpart A of this part. A basic engine is a unique combination of fuel system, number of cylinders, catalyst usage, and engine displacement.

A model type is a unique combination of car line, basic engine, and transmission class. Thus Ajax is a car line but Ajax 300-2V noncatalyst, 49-state, manual transmission is a model type whereas Ajax 300-2V non-catalyst, 49-state, automatic transmission is a different model type.

The following calculations provide an example of the procedures described in Subpart C of this part for the calculation of vehicle configuration and model type fuel economy values. In order to simplify the presentation, only city fuel economy values are included. The procedure is identical for highway and combined fuel economy values.

Step I. *Input data as supplied by the manufacturer or as determined from testing conducted by the Administrator.*
Manufacturer—Mizer Motors.
Basic Engine: (300-2 barrel, 8-cylinder, non-catalyst, 49 state).

Test vehicle carline	Engine code	Transmission	Inertia weight	Axle ratio	Average miles per gallon	Label miles per gallon [1]	Vehicle configuration sales
Ajax	1	M-3	3,500	2.73	16.1001	16	15,000
Do	2	A-3	3,500	2.56	15.9020	16	35,000
Boredom III	4	M-3	4,000	3.08	14.2343	14	10,000
Ajax	3	M-4	4,000	3.36	15.0000	15	15,000
Boredom III	8	A-3	4,000	2.56	13.8138	14	25,000
Do	5	A-3	4,500	3.08	13.2203	13	20,000
Castor	5	A-3	5,000	3.08	10.6006	11	40,000

[1] The vehicle configuration fuel economy values, rounded to the nearest mile per gallon, are the fuel economy values that would be used on specific labels for that vehicle configuration.

Step II. *Group vehicle fuel economy and sales data according to base level combinations within this basic engine.*

	Transmission	Inertia weight	Miles per gallon	Projected vehicle configuration sales
Base level:				
A	Manual-3	3,500	16.1001	15,000
B	Automatic	3,500	15.9020	35,000
C	Manual-3	4,000	14.2343	10,000
C	Manual-4	4,000	15.0000	15,000
D	Automatic	4,000	13.8138	25,000
E	do	4,500	13.2203	20,000
F	do	5,000	10.6006	40,000

Step III. *Determine base level fuel economy values.*

A. For all the base levels except the base level which includes 4,000 pound, manual transmission data, the base level fuel economy is as noted in Step II since only one vehicle configuration was tested within each of these base levels.

	Miles per gallon
3,500 lb/manual transmission	16.1001
3,500 lb/automatic transmission	15.9020
4,000 lb/automatic transmission	13.8138
4,500 lb/automatic transmission	13.2203
5,000 lb/automatic transmission	10.6006

B. Since data from more than one vehicle configuration are included in the 4,000-pound, manual transmission base level, this fuel economy is harmonically averaged in proportion to the percentage of total sales of all vehicle configurations tested within that base level represented by each vehicle configuration tested within that base level.

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$$\text{Base level fuel econ.} = \frac{1}{\begin{bmatrix}\text{Fraction of total}\\ \text{sales of configu-}\\ \text{rations tested}\\ \text{represented by}\\ \text{configuration}\\ \text{No. 1 sales}\end{bmatrix}\begin{bmatrix}\dfrac{1}{\text{Configuration No. 1 fuel economy}}\end{bmatrix}+\begin{bmatrix}\text{Fraction of total}\\ \text{sales of configu-}\\ \text{rations tested}\\ \text{represented by}\\ \text{configuration}\\ \text{No. 2 sales}\end{bmatrix}\begin{bmatrix}\dfrac{1}{\text{Configuration No. 2 fuel economy}}\end{bmatrix}} + \cdots$$

Base Level: Manual, 4,000 pounds.

$$\frac{1}{\left[\frac{10000}{25000}\right]\frac{1}{14.2343}+\left[\frac{15.000}{250000}\right]\frac{1}{15.0000}} = 14.6840 \text{ mi/gal}$$

Therefore, the 4,000 pound/manual transmission fuel economy is 14.6840 mi/gal.

4,000 pound/manual transmission = 14.6840 mi/gal

Note that the car line of the test vehicle using a given engine makes no difference—only the weight and transmission do.

Step IV. *For each model type offered by the manufacturer with that basic engine, determine the sales fraction represented by each inertia weight/transmission class combination and the corresponding fuel economy.*

Ajax:		
Manual	1.0000 at 3,500 lb	16.1001
Automatic	0.3000 at 3,500 lb	15.9020
	0.7000 at 4,000 lb	13.8136
Dodo:		
Manual	0.4000 at 3,500 lb	16.1001
	0.6000 at 4,000 lb	14.6840
Automatic	0.3000 at 3,500 lb	15.9020
	0.7000 at 4,000 lb	13.8136
Boredom III:		
Manual	1.0000 at 4,000 lb	14.6840
Automatic	0.2500 at 4,000 lb	13.8136
	0.7500 at 4,500 lb	13.2203
Castor:		
Automatic	0.2000 at 4,500 lb	13.2203
	0.8000 at 5,000 lb	10.6006

Step V. *Determine fuel economy for each model type (that is, car line/basic engine/transmission class combination).*

Ajax, 300-2 barrel, automatic, MPG =

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$$\frac{\text{The fraction of Ajax vehicles using the 300-2 bbl, engine which fall in the 3,500 lb inertia weight class with an automatic transmission.}}{\text{Fuel economy for 300-2 bbl, 3,500 lb automatic transmission base level.}} + \frac{\text{The fraction of Ajax vehicles using the 300-2 bbl, engine which fall in the 4,000 lb inertia weight class with an automatic transmission.}}{\text{Fuel economy for 300-2 bbl, 4,000 lb automatic transmission base level.}}$$

$$\text{Ajax, 300-2 barrel, automatic, MPG} = \frac{1}{\frac{0.3000}{15.9020} + \frac{0.7000}{13.8138}} = 14.3803$$

Similarly,
Ajax, 300-2 barrel, manual MPG=16.1 16 MPG[1]

$$\text{Dodo, 300-2 barrel, manual MPG} = \frac{1}{\frac{0.4000}{16.1001} + \frac{0.6000}{14.6840}} = 15.2185, \text{ 15 mi/gal}^{1}$$

$$\text{Dodo, 300-2 barrel, automatic MPG} = \frac{1}{\frac{0.3000}{15.9020} + \frac{0.7000}{13.8138}} = 14.3803, \text{ 14 mi/gal}^{1}$$

Boredom III, 300-2 barrel, manual MPG=14.6840, 15 mi/gal[1]

$$\text{Boredom III, 300-2 barrel, automatic MPG} = \frac{1}{\frac{0.2500}{13.8138} + \frac{0.7500}{13.2203}} = 13.3638, \text{ 13 mi/gal}^{1}$$

$$\text{Castor, 300-2 barrel, automatic MPG} = \frac{1}{\frac{0.2000}{13.2203} + \frac{0.8000}{10.6006}} = 11.0381, \text{ 11 mi/gal}^{1}$$

Note that even though no Dodo was actually tested, this approach permits its fuel economy figure to be estimated, based on the inertia weight distribution of projected Dodo sales within a specific engine and transmission grouping.

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[1] The model type fuel economy values, rounded to the nearest mile per gallon, are the fuel economy values as used on general labels for that model year.

[41 FR 49766, Nov. 10, 1976]

APPENDIX IV—SAMPLE FUEL ECONOMY LABEL FORMATS

The following sample fuel economy labels represent formats and language which would be approved by the Administrator for various labeling schemes. Of course, the actual vehicle description, vehicle class, fuel economy values, and annual fuel costs would correspond to the appropriate information approved for the labeled vehicle. Additionally, the range of combined fuel economy, the effective date of the range, the fuel cost per gallon, and the miles driven per year would be as specified by the Administrator at the time of label approval.

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GENERAL LABEL
WITH RANGE

Based on the results of tests conducted or certified by the U.S. ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Federal Energy
Administration

Vehicle: Ajax, 8-cylinder, 300 cubic inch displacement, 2 barrel carburetor, automatic transmission, catalyst equipped

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND HIGHWAY DRIVING

As of September 17, 1976, the combined city and highway fuel economy for other Large vehicles ranged from 8 to 20 miles per gallon.

Based on $0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 12 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

BEST DOCUMENT AVAILABLE

GENERAL LABEL
WITHOUT RANGE

Based on the results of tests conducted or certified by the U.S. ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Federal Energy
Administration

Vehicle: Ajax, 8 cylinder, 300 cubic inch displacement, 2 barrel carburetor, automatic transmission, catalyst equipped

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND
HIGHWAY DRIVING

As of the date this vehicle was built (or imported), a range of combined city and highway fuel economy for large vehicles was not available.

Based on $ 0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 14 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

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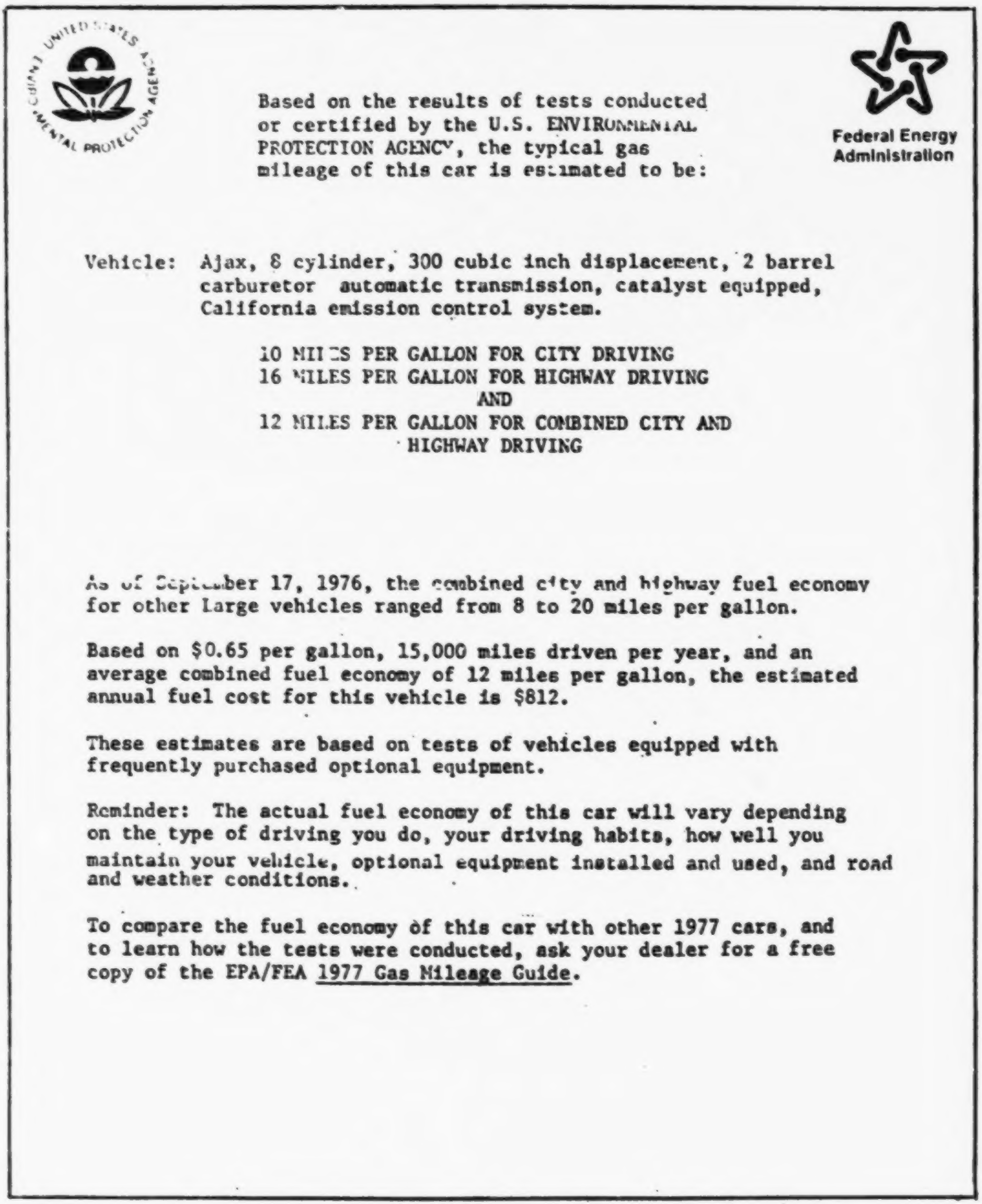
GENERAL LABEL
CALIFORNIA



Federal Energy Administration

Based on the results of tests conducted or certified by the U.S. ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Vehicle: Ajax, 8 cylinder, 300 cubic inch displacement, 2 barrel carburetor automatic transmission, catalyst equipped, California emission control system.

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND HIGHWAY DRIVING

As of September 17, 1976, the combined city and highway fuel economy for other Large vehicles ranged from 8 to 20 miles per gallon.

Based on $0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 12 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

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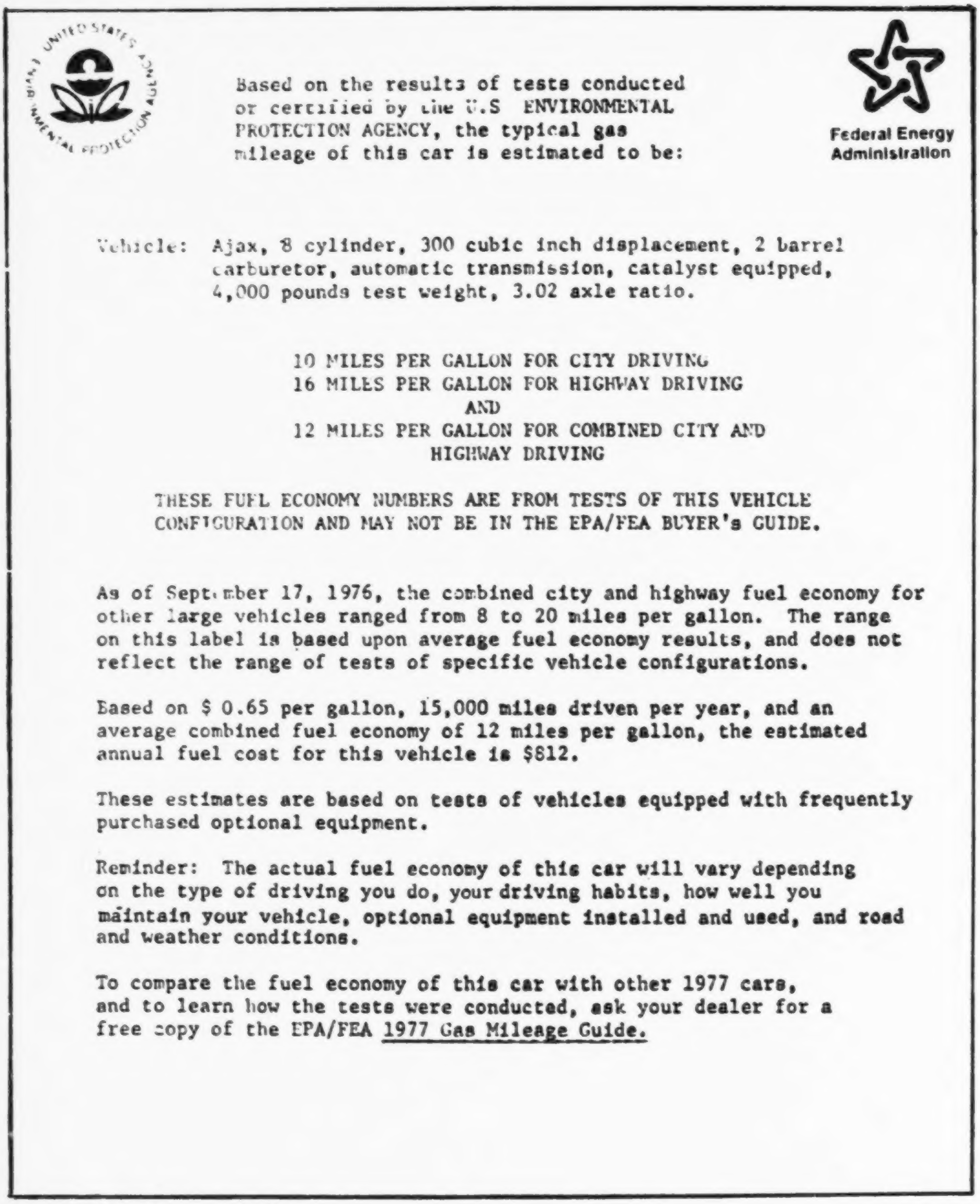
SPECIFIC LABEL
WITH RANGE



Based on the results of tests conducted or certified by the U.S ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Federal Energy Administration

Vehicle: Ajax, 8 cylinder, 300 cubic inch displacement, 2 barrel carburetor, automatic transmission, catalyst equipped, 4,000 pounds test weight, 3.02 axle ratio.

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND
HIGHWAY DRIVING

THESE FUEL ECONOMY NUMBERS ARE FROM TESTS OF THIS VEHICLE CONFIGURATION AND MAY NOT BE IN THE EPA/FEA BUYER's GUIDE.

As of September 17, 1976, the combined city and highway fuel economy for other large vehicles ranged from 8 to 20 miles per gallon. The range on this label is based upon average fuel economy results, and does not reflect the range of tests of specific vehicle configurations.

Based on $ 0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 12 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

[41 FR 49768, Nov. 10, 1976]

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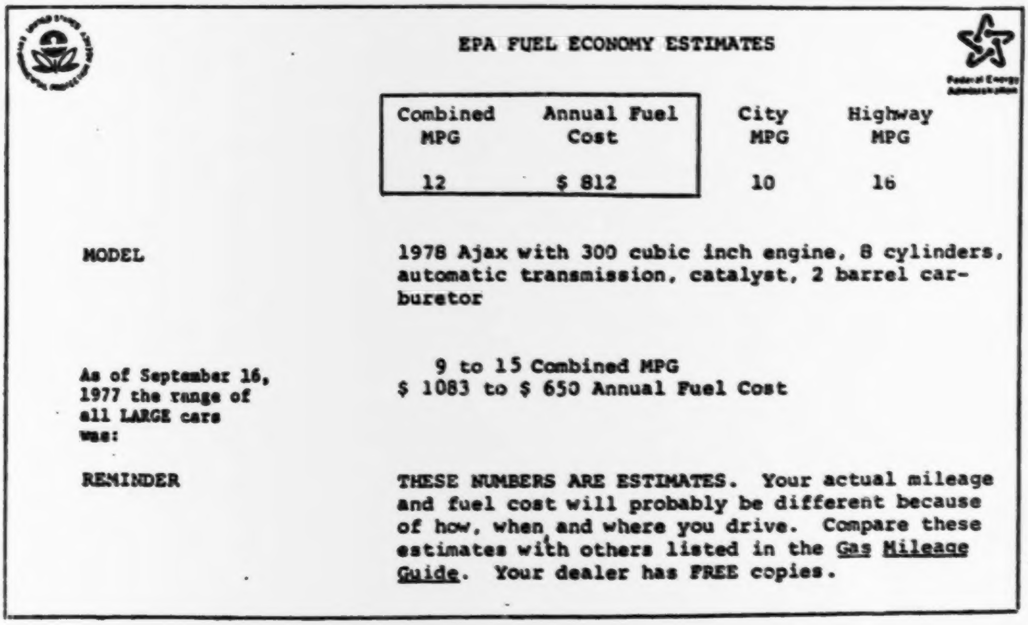
APPENDIX V—OPTIONAL FUEL ECONOMY LABEL FORMAT FOR THE 1978 MODEL YEAR

The following sample label illustrates the optional label format permitted for the 1978 model year:



EPA FUEL ECONOMY ESTIMATES

Combined MPG	Annual Fuel Cost	City MPG	Highway MPG
12	$ 812	10	16

MODEL	1978 Ajax with 300 cubic inch engine, 8 cylinders, automatic transmission, catalyst, 2 barrel carburetor
As of September 16, 1977 the range of all LARGE cars was:	9 to 15 Combined MPG $ 1083 to $ 650 Annual Fuel Cost
REMINDER	THESE NUMBERS ARE ESTIMATES. Your actual mileage and fuel cost will probably be different because of how, when and where you drive. Compare these estimates with others listed in the Gas Mileage Guide. Your dealer has FREE copies.

[42 FR 37813, July 25, 1977]

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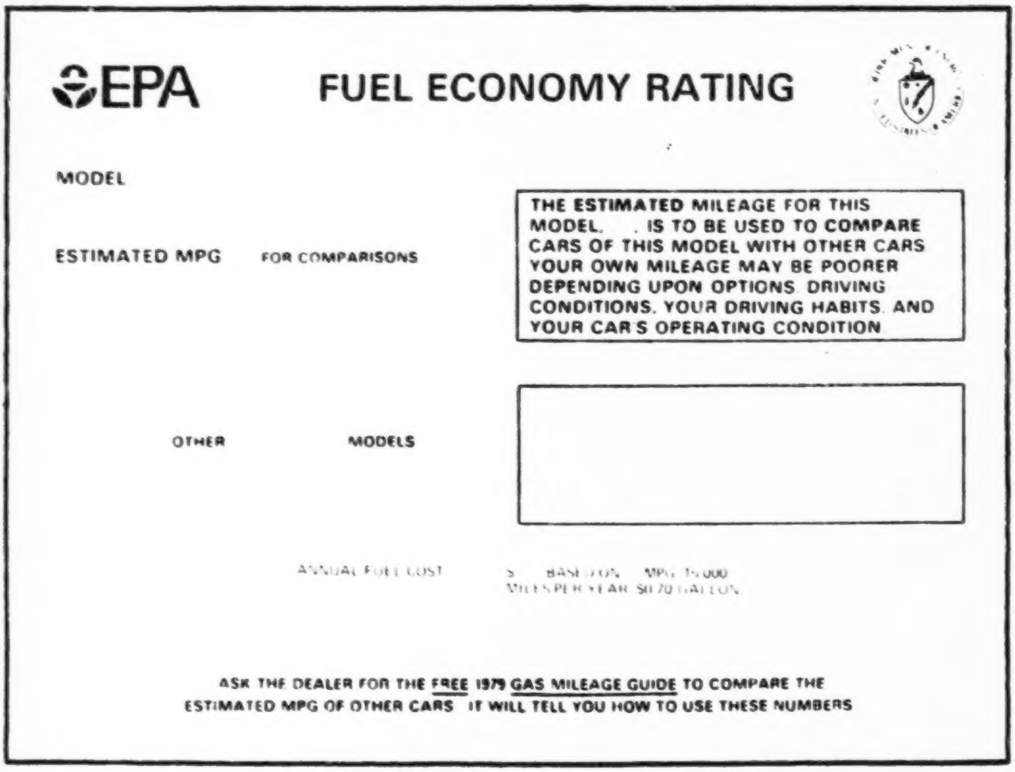
APPENDIX VI—1979 Model Year Fuel Economy Label Format

A. GENERAL LABEL FOR PASSENGER CARS



EPA FUEL ECONOMY RATING

MODEL

ESTIMATED MPG FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS MODEL, . IS TO BE USED TO COMPARE CARS OF THIS MODEL WITH OTHER CARS YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS DRIVING CONDITIONS, YOUR DRIVING HABITS AND YOUR CAR'S OPERATING CONDITION

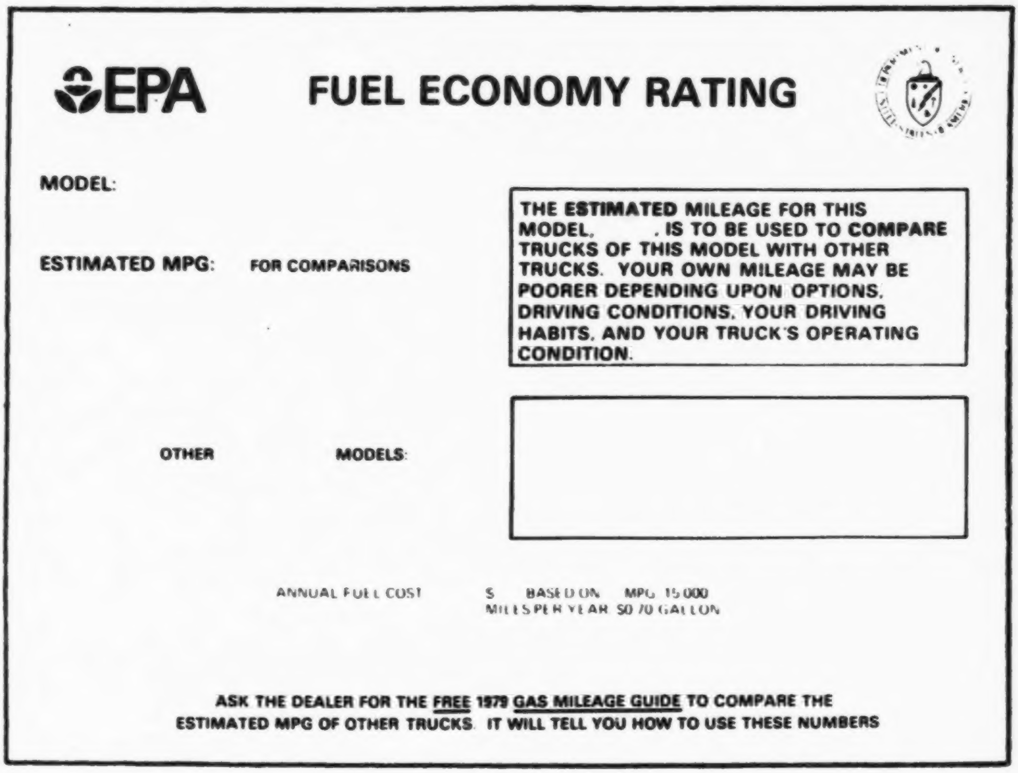
OTHER MODELS

ANNUAL FUEL COST $ BASED ON MPG 15,000 MILES PER YEAR $0.70 GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER CARS IT WILL TELL YOU HOW TO USE THESE NUMBERS

BEST DOCUMENT AVAILABLE

B. GENERAL LABEL FOR TRUCKS



EPA **FUEL ECONOMY RATING**

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE ESTIMATED MILEAGE FOR THIS MODEL, . IS TO BE USED TO COMPARE TRUCKS OF THIS MODEL WITH OTHER TRUCKS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR TRUCK'S OPERATING CONDITION.

OTHER MODELS:

ANNUAL FUEL COST $ BASED ON MPG, 15,000 MILES PER YEAR, $0.70/GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER TRUCKS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

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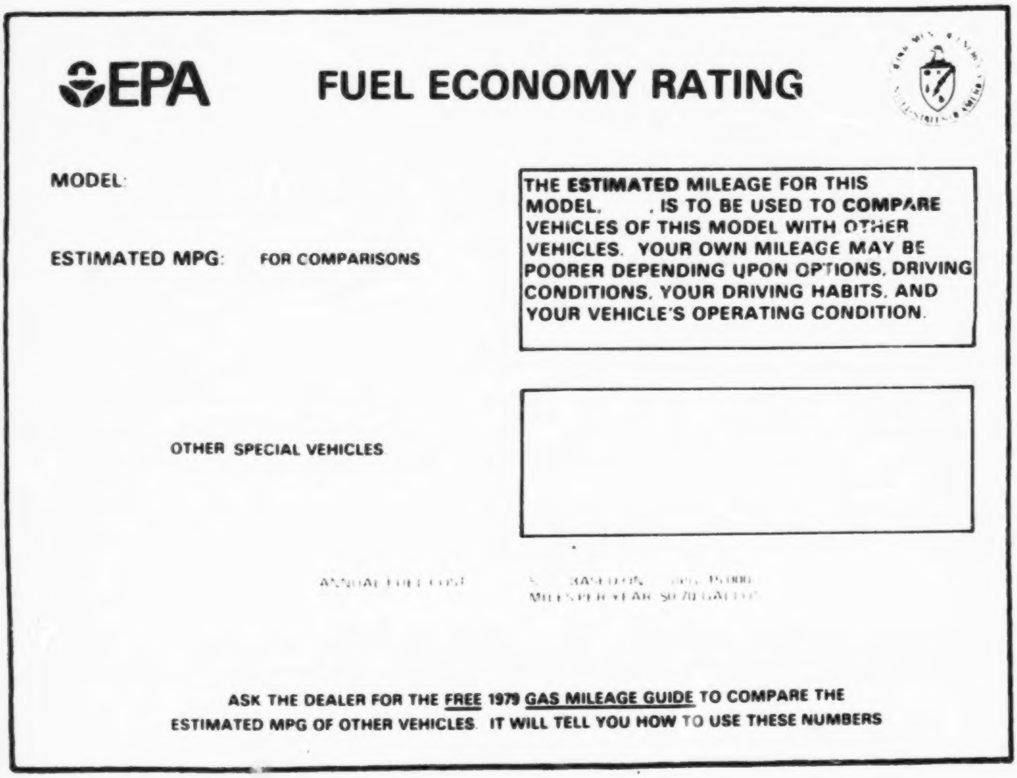
C. General Label for Special Purpose Vehicles



EPA

FUEL ECONOMY RATING

MODEL:

ESTIMATED MPG: FOR COMPARISONS

THE **ESTIMATED** MILEAGE FOR THIS MODEL, , IS TO BE USED TO **COMPARE** VEHICLES OF THIS MODEL WITH OTHER VEHICLES. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR VEHICLE'S OPERATING CONDITION.

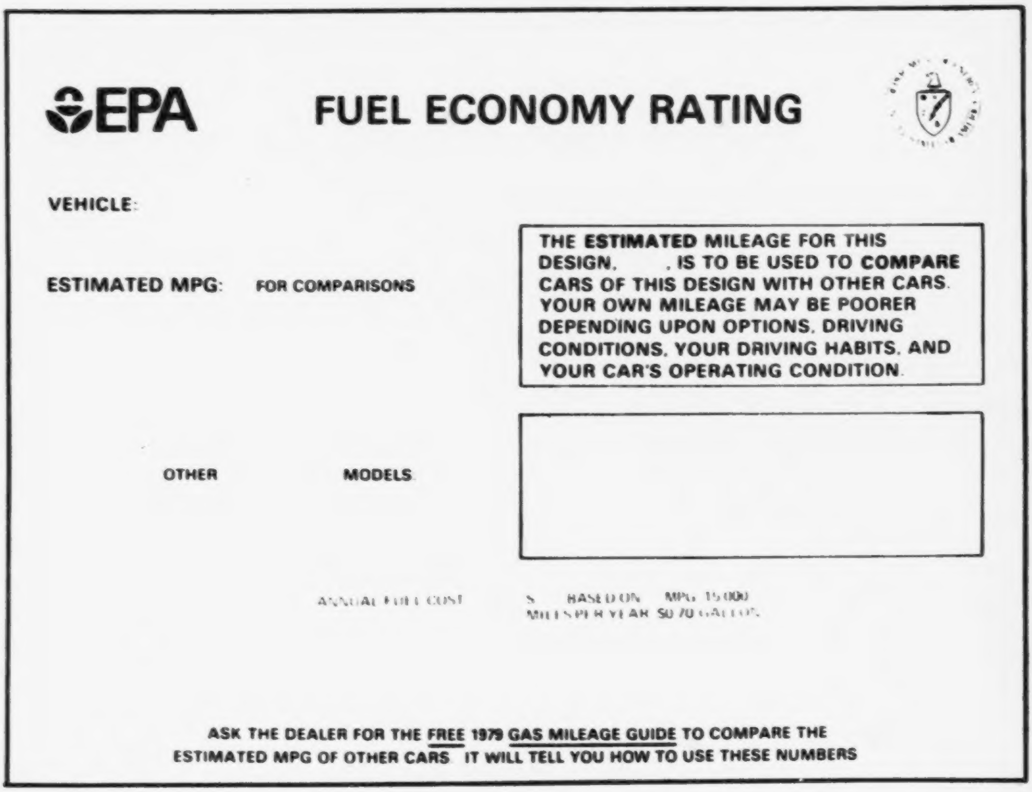
OTHER SPECIAL VEHICLES

ANNUAL FUEL COST $ BASED ON [illegible] 15,000 MILES PER YEAR $0.70/GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER VEHICLES. IT WILL TELL YOU HOW TO USE THESE NUMBERS

BEST DOCUMENT AVAILABLE

D. SPECIFIC LABEL FOR PASSENGER CARS



EPA **FUEL ECONOMY RATING**

VEHICLE:

ESTIMATED MPG: **FOR COMPARISONS**

THE ESTIMATED MILEAGE FOR THIS DESIGN, , IS TO BE USED TO COMPARE CARS OF THIS DESIGN WITH OTHER CARS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR CAR'S OPERATING CONDITION.

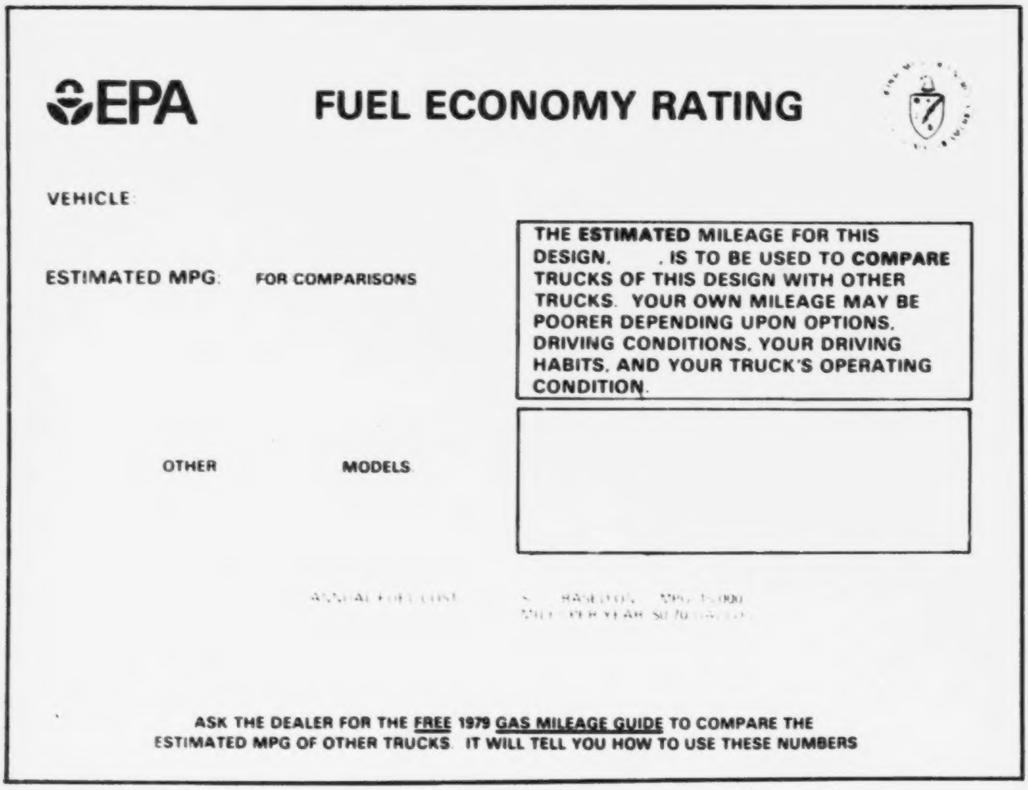
OTHER **MODELS**

ANNUAL FUEL COST $ BASED ON MPG, 15,000 MILES PER YEAR $0.70 GALLON.

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER CARS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

BEST DOCUMENT AVAILABLE

E. Specific Label for Trucks



EPA **FUEL ECONOMY RATING**

VEHICLE:

ESTIMATED MPG: FOR COMPARISONS

THE **ESTIMATED** MILEAGE FOR THIS DESIGN, . IS TO BE USED TO **COMPARE** TRUCKS OF THIS DESIGN WITH OTHER TRUCKS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR TRUCK'S OPERATING CONDITION.

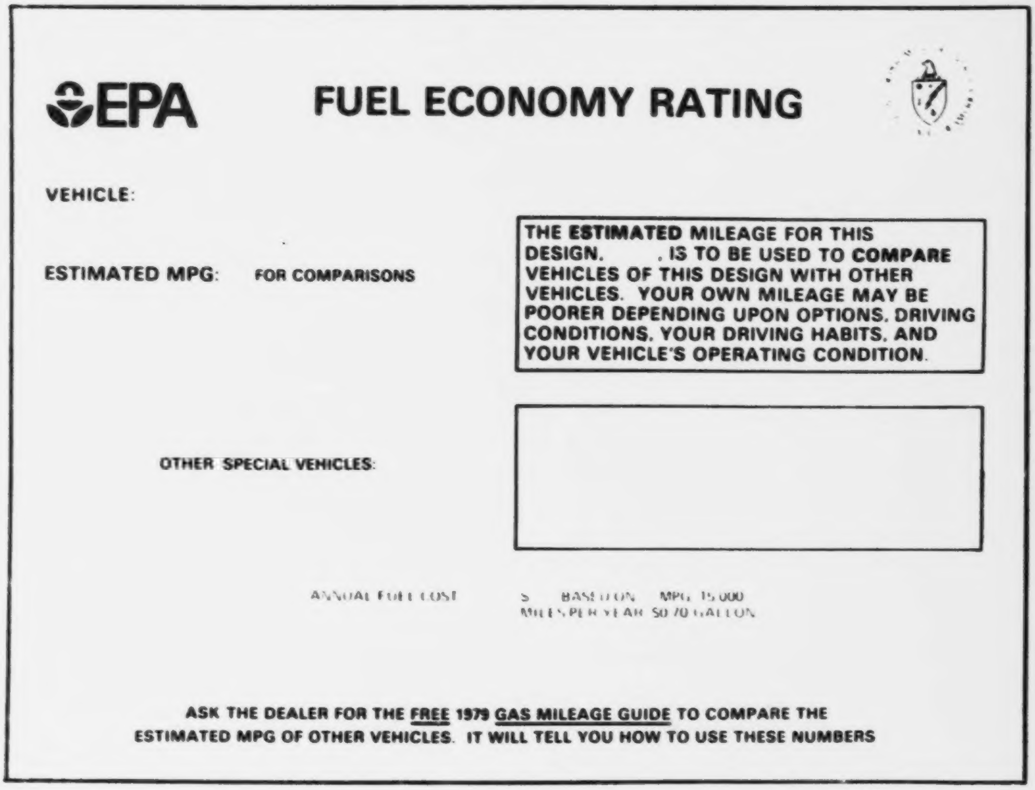
OTHER MODELS

ANNUAL FUEL COST $ BASED ON MPG 15,000 MILES PER YEAR $0.70/GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER TRUCKS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

BEST DOCUMENT AVAILABLE

F. SPECIFIC LABEL FOR SPECIAL PURPOSE VEHICLES



EPA **FUEL ECONOMY RATING**

VEHICLE:

ESTIMATED MPG: **FOR COMPARISONS**

THE **ESTIMATED** MILEAGE FOR THIS DESIGN, , IS TO BE USED TO **COMPARE** VEHICLES OF THIS DESIGN WITH OTHER VEHICLES. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR VEHICLE'S OPERATING CONDITION.

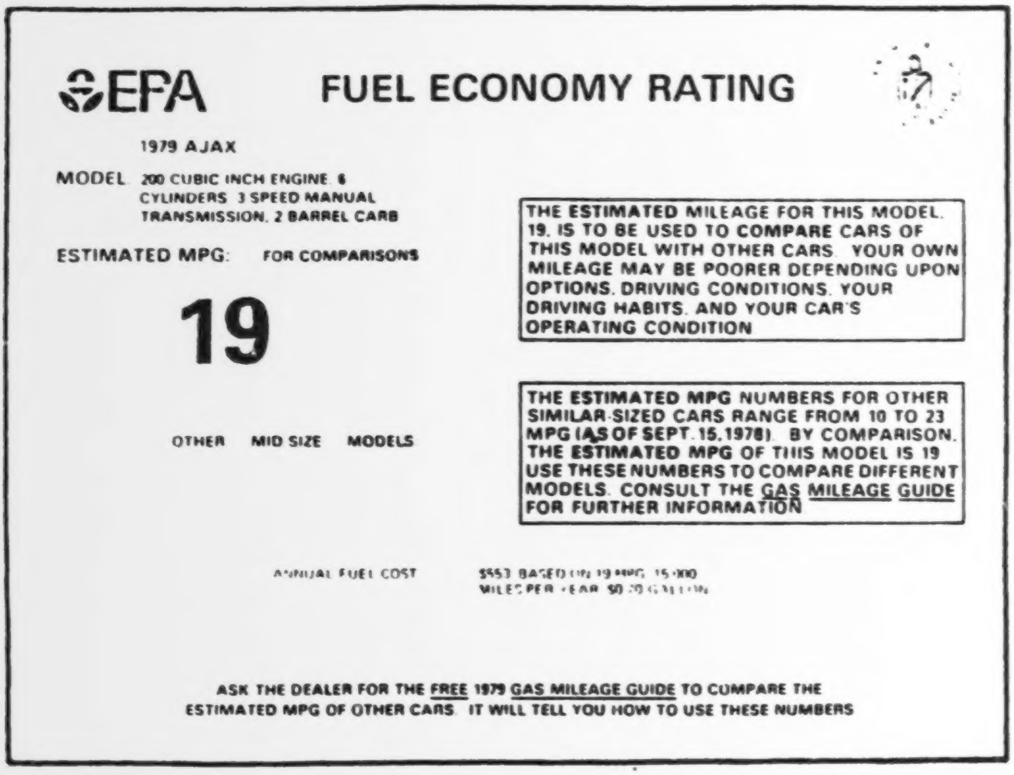
OTHER SPECIAL VEHICLES:

ANNUAL FUEL COST $ BASED ON MPG, 15,000 MILES PER YEAR $0.70/GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER VEHICLES. IT WILL TELL YOU HOW TO USE THESE NUMBERS

BEST DOCUMENT AVAILABLE

G. SAMPLE OF LABEL WITH DATA INSERTED



EPA FUEL ECONOMY RATING

1979 AJAX

MODEL 200 CUBIC INCH ENGINE. 6 CYLINDERS. 3 SPEED MANUAL TRANSMISSION. 2 BARREL CARB

ESTIMATED MPG: FOR COMPARISONS

19

THE ESTIMATED MILEAGE FOR THIS MODEL. 19, IS TO BE USED TO COMPARE CARS OF THIS MODEL WITH OTHER CARS. YOUR OWN MILEAGE MAY BE POORER DEPENDING UPON OPTIONS, DRIVING CONDITIONS, YOUR DRIVING HABITS, AND YOUR CAR'S OPERATING CONDITION

OTHER MID SIZE MODELS

THE ESTIMATED MPG NUMBERS FOR OTHER SIMILAR-SIZED CARS RANGE FROM 10 TO 23 MPG (AS OF SEPT. 15, 1978). BY COMPARISON, THE ESTIMATED MPG OF THIS MODEL IS 19. USE THESE NUMBERS TO COMPARE DIFFERENT MODELS. CONSULT THE GAS MILEAGE GUIDE FOR FURTHER INFORMATION

ANNUAL FUEL COST $553 BASED ON 19 MPG, 15,000 MILES PER YEAR, $0.70 GALLON

ASK THE DEALER FOR THE FREE 1979 GAS MILEAGE GUIDE TO COMPARE THE ESTIMATED MPG OF OTHER CARS. IT WILL TELL YOU HOW TO USE THESE NUMBERS

[43 FR 26726, June 22, 1978]

BEST DOCUMENT AVAILABLE

PART 610—FUEL ECONOMY RETROFIT DEVICES

TEST PROCEDURES AND EVALUATION CRITERIA

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610.11 Definitions.
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AUTHORITY: Sec. 511, Motor Vehicle Information and Cost Savings Act as amended (Sec. 301, Pub. L. 94-163, 89 Stat. 915 (15 U.S.C. 2011)).

SOURCE: 44 FR 17946, Mar. 23, 1979, unless otherwise noted.

TEST PROCEDURES AND EVALUATION CRITERIA

Subpart A—General Provisions

§ 610.10 Program purpose.

(a) The purpose of an evaluation program initiated under these rules is to determine, in accordance with standardized procedures, the performance of various retrofit devices applicable to automobiles for which fuel economy improvement claims are made, and to compile and disseminate the results of the evaluation. It should be stressed that the role of this program will be the generation, analysis and dissemination of technical data, and not the approval or certification of retrofit devices.

(1) Through engineering or statistical analysis of data from vehicle tests, the evaluation program will determine the effects on fuel economy, exhaust emissions, durability and driveability of the applicable vehicles due to the installation or use of the devices. The evaluation program will also include additional procedures, whenever determined by the Administrator as necessary, to evaluate the durability of the devices themselves, their effects on vehicle durability or other effects only evident over the course of extended mileage accumulation.

(b) Data generated in an evaluation program by the Administrator of the Environmental Protection Agency (EPA) are public information and will be published in the FEDERAL REGISTER and elsewhere for use by the Federal Trade Commission and the public. The results of any evaluation conducted by the Administrator may be used in any subsequent investigation or enforcement action in the event that a device is marketed in violation of Federal or state law.

§ 610.11 Definitions.

(a) Except as specifically defined below, all terms used in this part which are defined in 40 CFR Part 86 or 40 CFR Part 600 shall have the meanings provided therein.

(1) "Retrofit device" or "device" means any component, equipment or

other device (except flow measuring instruments or other driving aids):

(i) Which is designed to be installed in or on an automobile as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other devices; and

(ii) Which any manufacturer represents will provide higher fuel economy than would have resulted with the automobile as originally equipped, or

(2) "Automobile" means any four-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and which is rated at 6,000 lbs. gross vehicle weight or less.

(3) "Fuel economy" means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the Administrator in accordance with procedures established under Subparts D or F.

(4) "Manufacturer" means a person or company who is engaged in the business of manufacturing, distributing, or selling retrofit devices for which a fuel economy improvement claim is made.

(5) "Retrofit" means the addition of a new item, modification or removal of an existing item of equipment beyond that of regular maintenance, on an automobile after its initial manufacture.

(6) "Federal Test Procedure" or "City Fuel Economy Test" means the test procedures specified in 40 CFR Part 86, except as those procedures are modified in these protocols.

(7) "Highway Fuel Economy Test" means the test procedure described in § 600.111(b).

(8) "Operator" means any person who installs, services or maintains a retrofit device in an automobile or who operates an automobile with a retrofit device installed.

(9) "Device integrity" means the durability of a device and effect of its malfunction on vehicle safety or other parts of the vehicle system.

(10) "Test data" means any information which is a quantitative measure of any aspect of the behavior of a retrofit device.

(11) "Testing agent" means any person who develops test data on a retrofit device.

(12) "Preconditioning" means the operation of an automobile through one (1) EPA Urban Dynamometer Driving Schedule, described in 40 CFR Part 86.

(13) "Configuration" means the mechanical arrangement, calibration and condition of a test automobile, with particular respect to carburetion, ignition timing, and emission control systems.

(14) "Baseline configuration" means the unretrofitted test configuration, tuned in accordance with the automobile manufacturer's specifications.

(15) "Adjusted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications, but excluding retrofit hardware installation.

(16) "Retrofitted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications *and* after all retrofit hardware has been installed.

(17) "Data fleet" means a fleet of automobiles tested at "zero device-miles" in "baseline configuration," the "retrofitted configuration" and in some cases the "adjusted configuration," in order to determine the changes in fuel economy and exhaust emissions due to the "retrofitted configuration," and where applicable the changes due to the "adjusted configuration," as compared to the fuel economy and exhaust emissions of the "baseline configuration."

(18) "Durability fleet" means a fleet of automobiles operated for mileage accumulation used to assess deterioration effects associated with the retrofit device.

(19) "Zero device-miles" means the period of time between retrofit installation and the accumulation of 100 miles of automobile operation after installation.

(20) "Independent laboratory" means a test facility operated independently of any motor vehicle, motor vehicle engine, or retrofit device manufacturer capable of performing retrofit device evaluation tests. Additionally,

the laboratory shall have no financial interests in the outcome of these tests other than a fee charged for each test performed.

(21) "Evaluation program" or "program" means the sequence of analyses and tests prescribed by the Administrator as described in § 610.13 in order to evaluate the performance of a retrofit device.

(22) "Preliminary analysis" means the engineering analysis performed by EPA prior to testing prescribed by the Administrator based on data and information submitted by a manufacturer or available from other sources.

§ 610.12 Program initiative.

A retrofit device evaluation program will be initiated as follows:

(a) At the request of the Federal Trade Commission (FTC) when it has reason to believe that fuel economy representation made for a retrofit device being marketed may be inadequate,

(b) At the EPA Administrator's initiative, or

(c) Upon the application of any manufacturer of a retrofit device (or prototype thereof) for which a fuel economy improvement claim is made.

§ 610.13 Program structure.

(a) Each device evaluation program will consist of up to three phases:

(1) A preliminary analysis of available information and test data on the device to be performed by the EPA Administrator;

(2) Designing and conducting of a sequence of tests to determine device effectiveness if considered necessary by virtue of the Administrator's preliminary analysis; and

(3) Publication in the FEDERAL REGISTER, and submission to the Department of Transportation and to the Federal Trade Commission, of a summary of the results of any tests conducted under Subparts C through F, or if none were conducted, then a summary of the results of the preliminary analysis conducted under Subpart B; together with the Administrator's conclusions as to the effect of the tested retrofit device on fuel economy and exhaust emissions, and as to any other information that the Administrator determines is relevant in evaluating such device.

(b) Each of the above phases may, as appropriate, include the use of statistically valid sample sizes and statistical evaluation of measured results.

§ 610.14 Payment of program costs.

(a) All costs incurred in an evaluation program initiated at the request of the FTC or at the Administrator's initiative, including the cost of purchasing any necessary quantity of the device under evaluation, will be borne by the United States.

(b) If the evaluation program has been initiated by the application of a manufacturer under § 610.12(c), the manufacturer shall supply, at his own expense, samples of the device in the number required by the Administrator to an independent laboratory recognized by the Administrator. The costs of testing at the independent laboratory will be the responsibility of the manufacturer and will not be borne by the U.S. Government.

§ 610.15 Eligibility for participation.

Participation in an evaluation program initiated under § 610.12(c) will be available to any person or company who agrees to follow the procedures set forth in these protocols. Failure to conform to any aspect of these protocols, without the approval of the Adminstrator, may be interpreted as withdrawal from participation in the program.

§ 610.16 Applicant's responsibilities.

Each applicant for evaluation under § 610.12(c) will be responsible for the following:

(a) Submission of an application, in the format specified by the Administrator, prior to initiation of the evaluation. A separate application shall be made for each different device. The application shall be made to the Administrator (or his delegate) by the manufacturer and shall be updated and corrected by amendment if deemed necessary by EPA.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the device covered by the application, including drawings, schematics and information on the theory of operation.

(2) Vehicles or engines to which the device is applicable and a description of the types of vehicles or engines to which it is not applicable, e.g., would not provide a benefit, a benefit less than claimed for the device in general, or would result in a safety hazard or damage to the engine. If the reason for inapplicability is safety or damage related, this must be explained as required by paragraph (b)(7) of this section.

(3) Installation or usage instructions, including degree of knowledge required by persons making the installation and the tools and equipment required.

(4) A statement of recommended maintenance, degree of knowledge required for that maintenance, and the tools and equipment required to perform the maintenance.

(5) All data regarding exhaust emissions regulated by EPA under § 202 of the Clean Air Act and fuel economy test data on the device or product available to the applicant.

(6) All information available to the applicant concerning whether the device in its operation, function, or malfunction may cause an automobile using that device to emit into the ambient air any substance other than pollutants regulated by EPA under section 202 of the Clean Air Act (i.e., hydrocarbons, carbon monoxide, and oxides of nitrogen), or natural gaseous atmospheric constituents (such as carbon dioxide, or water vapor) in a quantity differing from that emitted in the operation of the automobile without the device.

(7) All information available to the applicant concerning whether and under what conditions the device in its operation, function or malfunction may result in damage to an automobile or endanger its occupants or persons or property in close proximity to the automobile.

(c) Shipment to the EPA's Motor Vehicle Emission Laboratory, or other test site designated by the Administrator, of the devices being evaluated in the quantity specified by the Administrator.

(d) Complete copies of the application and of any amendments thereto shall be submitted in such multiple copies as the Administrator may require.

§ 610.17 Application format.

(a) Device manufactures who apply for evaluation of a fuel economy retrofit device should use the standard application format, in order to allow the Administrator to compile relevant data on specific devices and to allow timely response to applications. Application formats are available from and submissions shall be made to:

Director, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Attn: Fuel Economy Retrofit Device Evaluation.

(b) Four weeks should be allowed for analysis of the application and preparation of a response. As indicated in other sections of this part, this response will include the evaluation of the device according to the criteria discussed in Subpart B of this part. The results of the Administrator's evaluation will be made public.

Subpart B—Evaluation Criteria for the Preliminary Analysis

§ 610.20 General.

The Administrator will employ the following criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices:

(a) Device functional category;
(b) Device integrity;
(c) Operator interaction effects;
(d) Validity of test data;
(e) Evaluation of test data;

as these concepts are explained in §§ 610.21 through 610.25 respectively.

§ 610.21 Device functional category and vehicle system effects.

(a) The devices evaluated in this program are organized into categories for purposes of definition and establishment of evaluation criteria and test procedures, and to indicate which vehicle functional characteristics (other than fuel economy) may be adversely affected by installation or use of the device.

(b) A device's category will be based on:

(1) Engineering principles governing operation of the device;

(2) Interaction between the device and specific vehicle/engine operating characteristics; and

(3) Constraints with respect to vehicle applicability of the device.

(c) The device categories and the affected vehicle functional characteristics which may be adversely affected are noted for each device category in Table I. The notations for each characteristic are as follows:

Exhaust emissions	1
Driveability	2
Durability	3
Performance	4

TABLE I

Device categories	Characteristics adversely affected
Fuel-air system	
Carburetors and fuel injection systems	All
Air-fuel ratio modifiers (e.g., air bleeds)	All
Atomization devices (acoustic and mechanical)	All
Vapor injectors	All
Choke controls	1, 2, 4
Air filters	1, 3, 4
Fuel-air distribution systems (intake manifolds)	1, 2, 4
Fuel pressure regulators	All
Ignition system	
Spark plugs	All
Spark timing control systems	All
Spark duration control systems	1, 4
Spark energy sources	1, 4
Emission control systems	
Exhaust gas recirculation (EGR) systems	All
After-treatment devices	1, 2, 4
Drivetrain	
Tires	1
Overdrive units	All
Torque converter lockups	1, 2, 4
Exhaust system	
Headers	1
Tuned exhaust systems	1
Accessories	
Cooling fan or cooling for couplings	1
Cold start aids (e.g., engine heaters)	1
Lubrication	
Oil filters	3
Vehicle body	
Aerodynamic drag reduction devices	1
Miscellaneous	
Modifications to valve timing	All
Retrofit pre-chambers	All
Other miscellaneous	Potentially all

(d) In the absence of sufficient information from the device manufacturer on this topic or if the Administrator's preliminary analysis indicates that testing is necessary to determine the nature or extent of possible adverse effects of device installation and use on vehicle operation and performance, the Administrator will require such tests to be conducted prior to the publication of a complete evaluation of the device.

§ 610.22 Device integrity.

The integrity of a device will be evaluated with respect to:

(a) The extent to which device manufacture is standardized by means of drawings, specifications, and other fabrication and quality assurance controls;

(b) The degree of sensitivity of device effectiveness to deterioration under exposure to normal operating conditions.

(c) The susceptibility of the device to deterioration of effectiveness under abnormal operating conditions;

(d) The effect upon its surroundings of device malfunction which may be reasonably anticipated to occur in actual use; and

(e) The extent to which test data support (b), (c) and (d).

§ 610.23 Operator interaction effects.

The device will also be evaluated with respect to:

(a) The degree of sensitivity of device effectiveness to variances in installation, operation and maintenance;

(b) The adequacy of manufacturer-furnished instructions for minimizing variances in installation, operation and maintenance;

(c) the extent to which device installation or use, or the effects of such installation or use, relate to Federal emission control regulations;

(d) Effects on the performance, safety, or occupant comfort of the retrofitted vehicle, and on that of other vehicles; and

(e) the relationship between total cost of ownership of the device (purchase price plus maintenance costs) and the cost savings realizable from its fuel economy effects.

§ 610.24 Validity of test data.

The Administrator will make a determination as to the validity of manufacturer-furnished test data on the basis of:

(a) The correlation between the test procedures used by the manufacturer or testing agent and the procedures prescribed in Subpart D;

(b) The choice of test vehicle(s) as representative of the manufacturer's claim for operation and/or principles of operation;

(c) The degree of control exercised over ambient and operating conditions in the tests, including vehicle calibrations;

(d) Accuracy and precision of the measurement techniques and instrumentation used in the tests;

(e) Disclosure of all test data acquired on the device, whether representing positive, negative, or inconclusive results;

(f) Qualifications and independence of the testing agent; and

(g) The extent to which test data include evaluation of the durability of the device, or its effect on vehicle durability.

§ 610.25 Evaluation of test data.

Valid manufacturer-furnished test data will be evaluated with respect to:

(a) Vehicle applicability;

(b) Dependence of device effects upon vehicle type;

(c) Device effects on fuel economy, and on emissions, with statistical or other caveats as established by the data base;

(d) Definition of claims which can be made based on the available data; and

(e) Substantiation of specified claims made by the manufacturer.

Subpart C—Test Requirement Criteria

§ 610.30 General.

(a) If the Administrator determines, by the criteria given in Subpart B, that the claims made for a device are not supported by existing test data or other information, the Administrator will request the manufacturer to furnish additional information, and may design a test program to investigate those areas where claims appear to be erroneous or unsupported or where adverse effects due to use of the device are suspected.

(b) In cases where the Administrator determines on the basis of the preliminary analysis that a device either can have no significant beneficial effect on fuel economy, or will have an adverse effect on emissions, he may elect not to design a test program or test the device and to publish only his preliminary analysis and conclusions.

(c) If the evaluation was initiated upon application of a manufacturer (as described in § 610.12(c)) and the manufacturer elects not to have the device tested, the Administrator's preliminary analysis and conclusions will be published.

§ 610.31 Vehicle tests for fuel economy and exhaust emissions.

(a) The tests described in Subparts D, E, or F may be conducted if existing data or other information are insufficient to support claims for a device in any of these areas:

(1) Degree of improvement in fuel economy

(2) Effect on exhaust emissions

(3) Vehicle applicability

(b) The Administrator may determine that, in certain cases, tests using engine dynamometers are adequate for determining the effect of a device. Examples of such cases are given below.

(1) *Long-term effects.* In some cases, it may be necessary for the engine to operate for several thousand miles before the effectiveness can be adequately measured. In such cases an engine dynamometer will permit a less

expensive and better controlled durability and economy test than one in which a vehicle must be driven on a durability route and then tested on a chassis dynamometer or test track.

(2) *Durability requirements.* Aspects of engine durability can be efficiently determined using specialized engine testing rather than through durability mileage accumulation in a vehicle. A number of standard engine tests are presently used which can be incorporated into this requirement.

(c) When in the judgment of the Administrator a device cannot satisfactorily be evaluated using either dynamometer or track versions of the City Fuel Economy Test and the Highway Fuel Economy Test, the Administrator will select or design other procedures.

§ 610.32 Test fleet selection.

(a) The composition and size of the test fleet will be determined by the Administrator. In a device evaluation program initiated at the request of the FTC, the composition and size of the test fleet will be determined by the Administrator in consultation with the FTC.

(b) The goal of the test fleet selection will be the provision of a data base adequate to give the Administrator reasonable confidence in the conclusions to be reached.

(c) Once the number of vehicles to be tested has been determined, the Administrator will specify the test fleet makeup by make, model, model year, engine displacement and carburetor, transmission type, and such other factors as he may deem relevant to the testing program.

§ 610.33 Durability tests.

The Administrator may determine that a device under evaluation will require durability testing in addition to the basic evaluation testing for device effectiveness. This requirement may be necessary for several reasons:

(a) A retrofit device manufacturer may claim that some mileage accumulation may be needed before the full effectiveness of the device can be obtained. If such claims are made, durability testing as described in Subpart E may be performed. To determine whether the effectiveness change during the mileage accumulation is a function of the device or of the mileage accumulation alone, in some durability tests it may be necessary to run the mileage accumulation on vehicles with and without the device. Due to the high cost of durability testing and in particular of such duplicate testing, it will be used only where it is judged by the Administrator to be necessary.

(b) A device may have a limited life expectancy or be such that it requires replacement or adjustment at a prescribed mileage interval. Confirmatory durability tests may be run to assess whether such mileage intervals are proper and effective.

(c) A device may be suspected of having an adverse effect on the durability of the engine to which it is applied. After identification of a potential failure mode, durability tests may be conducted to investigate any changes in engine characteristics associated with that failure mode. Examples are valve problems, deterioration in spark plug life, increase in carburetor or combustion chamber deposits, or increased engine wear. If it is not possible to directly measure the change in the suspect characteristic, then a durability run may be made as described in Subpart E, in which fuel economy and exhaust emissions are periodically checked during the accumulation of up to 15,000 miles.

(d) A critical item which can influence fuel economy is vehicle maintenance. Any durability test program used in evaluation of the effectiveness of a fuel economy device will be designed to differentiate maintenance effects from the effect of the device. Any maintenance associated with the device operation will be rigidly controlled. If the maintenance appears to be a significant factor in the effectiveness of a device, then it may be necessary to run a control test on vehicles without the device installed where the same maintenance is performed to quantify any incremental effect of that maintenance.

§ 610.34 Special test conditions.

If the Administrator determines that a device may have potentially detrimental effects on the operation of a vehicle when operated in ambient conditions outside the range specified in 40 CFR Part 86, or if the device manufacturer claims a fuel economy improvement in such conditions, additional tests may be performed. These tests will determine whether the device will significantly limit the operational usefulness of the vehicle and will assess the claimed fuel economy benefit.

(a) *Extreme temperatures.* As required by the Administrator, tests will be conducted at extreme ambient temperature conditions to determine the effect due to devices (e.g. engine heaters) for which fuel economy improvements at extreme temperatures are made. For other devices it may be necessary to determine whether the cold starting and driving capability of device-equipped vehicles is affected sufficiently to make them dangerous, or whether fuel economy characteristics at extreme temperatures are significantly worse than before the device was installed.

(b) *High altitude.* Devices for which specific claims of improved fuel economy at high altitude are made may be tested using the procedures in Subpart D, at altitudes above 4000 feet. For other devices, testing at high altitude may be necessary for determining whether a device will make the vehicle less useful or efficient when operated at various altitudes. The Administrator will determine when such testing is required.

§ 610.35 Driveability and performance tests.

If the Administrator determines that driveability and performance of a vehicle may be adversely affected by the use of a device, a number of automobiles to be determined by the Administrator will be subjected to the driveability and performance tests discussed in §§ 610.62 and 610.63, respectively.

Subpart D—General Vehicle Test Procedures

§ 610.40 General.

Two chassis dynamometer test procedures, the Federal Test Procedure and the Highway Fuel Economy Test will generally be used to evaluate the effectiveness of the devices supplemented by steady state or engine dynamometer tests where warranted. Under unusual circumstances, other test procedures, durability test procedures or special test procedures such as track versions of the City and Highway fuel economy tests may be used. These procedures are described in Subparts E and F.

§ 610.41 Test configurations.

(a) In order to measure the effectiveness of a retrofit device at least two, and in some cases, three vehicle configurations defined in § 610.11 will be tested. Each vehicle will be tested at least twice in each configuration, as determined by the Administrator.

(b) The first test configuration is a baseline configuration. In this configuration the baseline or unretrofitted vehicle emissions will be measured.

(c) A second test configuration, an adjusted configuration, may be required at the discretion of the Administrator if a device requires both hardware and engine parameter modifications to achieve the fuel economy improvement. If, in the Administrator's judgment, based on a review of the available information, the combined effects of retrofit hardware installation and parametric adjustment could be substantially duplicated by parametric adjustment alone, then the Administrator may specify a second test, to evaluate such adjustment exclusive of the retrofit hardware.

(d) The third series of tests, in the retrofitted configuration, will evaluate the full retrofit system installed on the vehicle.

§ 610.42 Fuel economy measurement.

(a) Fuel consumption will be measured by: 1) The carbon balance method, or 2) gravimetric or volumetric methods. In the gravimetric and volumetric methods, fuel consumption is determined by weighing the fuel source before and after a test, or by measuring the volume of fuel consumed during a test. Since the distance traveled during the tests is known, the fuel economy, in miles per gallon, can be calculated. Gravimetric and volumetric methods require the use of special test equipment in addition to the emissions measuring equipment.

(b) The carbon balance procedure for measuring fuel consumption relates the carbon products in the exhaust to the amount of fuel burned during the test. This method will be the one used to measure fuel economy unless track or road tests are employed.

(c) Three values of fuel economy will be reported: for city driving ('75 FTP), for highway driving (HFET), and the combined city/highway value calculated according to this equation:

$$MPG_{combined} = 1 \Big/ \left[\frac{0.55}{MPG_{city}} + \frac{0.45}{MPG_{hwy}}\right]$$

§ 610.43 Chassis dynamometer procedures.

(a)(1) *1975 Federal Test Procedure.* Vehicle exhaust emissions and fuel economy under urban driving conditions will be measured according to the Federal emission test procedure described in 40 CFR 86 Subpart B, which is known as the 1975 Federal Test Procedure ('75 FTP). However, the following modifications will be employed:

(i) No evaporative emission loss, as specified by 40 CFR Part 86 need be measured (with the exception of devices modifying or disconnecting existing evaporative control devices in such a manner as would be expected to adversely affect their evaporative emission control performance).

(ii) Vehicle preconditioning shall consist of operation of the vehicle through one (1) EPA Urban Dynamometer Driving Schedule. This preconditioning must be done at least 12 hours, but no earlier than 36 hours before the emission test.

(iii) While the test fuel must meet the specifications outlined in 40 CFR Part 86, fuel conditioning as specified for evaporative emission test procedures is not required.

(b) *Highway Fuel Economy Test.* The test vehicle is fully warmed up at the start of the highway Fuel Economy Test which is ordinarily run immediately following the Federal Emission Test Procedure. The test procedure to be followed for generation of highway fuel economy data is that specified in § 600.111.

(c) *Steady state tests.* Constant speed, road load tests may be conducted to help give insight into operational differences and exhaust emission and fuel economy changes due to a retrofit device. Speeds between 0 (engine idling) and 60 mpg will be investigated, with a time period at each speed long enough to ensure that engine operation has stabilized.

Subpart E—Durability Test Procedures

§ 610.50 Test configurations.

(a) In addition to the tuneup to manufacturer's specifications per § 610.41, all vehicles in the durability fleet will have installed the following new parts: Air, oil, and fuel filters, spark plugs, points, condenser, rotor, distributor cap, PCV valve, and emission control devices such as vacuum control valves and EGR valves.

(b) Vehicles included in the durability fleet will be subjected at zero device-miles to the same test sequence for fuel economy and exhaust emissions as specified in Subpart D. Subsequently, they will be tested at 3,000 device-mile intervals, up to and including the final mileage point of 15,000 device-miles. Testing at these mileage points will be performed with the vehicle equipped with the full retrofit system.

(c) After the 15,000-mile test the vehicle will be tuned as necessary and the device adjusted to the manufacturer's specifications as required. The fully restored retrofitted configuration will then be tested. The device will then be removed from the vehicle and the vehicle set to vehicle manufacturer's specifications. A tuned baseline test will then be conducted.

§ 610.51 Mileage accumulation procedure.

(a) Except as otherwise provided in this part, the mileage accumulation procedure will be that provided in 40 CFR Part 86. This mileage accumulation schedule, or a suitable alternate procedure approved by the Administrator, will be used.

(b) Fuel used in the accumulation of mileage will be commercial fuel available in the retail market and shall conform to the requirements of 40 CFR Part 86 for mileage accumulation fuel.

(1) The requirements of this paragraph may be modified by the Administrator when it is a fuel or fuel additive that is being tested.

§ 610.52 Maintenance.

(a) Maintenance during the durability evaluation can best be considered in three separate categories:

(1) Normal scheduled vehicle maintenance,

(2) Unscheduled vehicle maintenance, and

(3) Retrofit maintenance.

(b) Normal scheduled vehicle maintenance is the periodic service specified in the original owner's manual supplied to the owner at the time of new vehicle purchase.

(1) Normal periodic engine oil changes, vehicle lubrication, and oil filter changes, as specified in the original owner's manual, will be performed during durability mileage accumulation.

(2) For purposes of this part, the following items of normally scheduled vehicle maintenance will not be performed during the durability mileage accumulation:

(i) Normal tune-up items:

(A) Spark plugs.

(B) Condenser.

(C) Rotor.

(D) Distributor cap.

(ii) Air Cleaner element.

(iii) PCV Inspection.

(iv) Dwell and timing check.

(v) Charging circuit check.

(3) Periodic maintenance items specified in the original owner's manual, other than those listed above, may be performed if found to be necessary by the Administrator.

(c) *Unscheduled maintenance.* Because the vehicles used for durability evaluation in this program will probably have considerable mileage accumulation and unknown maintenance prior to inclusion in the program, it can be anticipated that certain vehicle and engine failures may occur, which may be unrelated to the retrofit device. Unscheduled maintenance will be performed only in those cases where a significant and obvious driveability problem has been reported by the driver of the vehicle.

(1) Correction of the following problems will be made as soon as the problems occur:

(i) Tire replacement (same size and type).

(ii) Vehicle body repairs (remote from engine and retrofit).

(iii) Windshield wipers.

(iv) Fluid levels unrelated to retrofit.

(v) Brakes.

(vi) Hoses unrelated to retrofit.

(vii) Belts unrelated to retrofit.

(viii) Suspension failures.

(ix) Wheel alignment.

(x) Steering.

(xi) Wheel bearings.

(xii) Non-engine electrical system.

(xiii) Drivetrain components (U-joints, axles, transmission adjustments, etc.)

(2) Other unscheduled maintenance of the engine or drivetrain may be made as directed by the Administrator. Upon notification of a need for unscheduled maintenance, the Administrator may decide that before and after maintenance fuel economy tests are required.

(d) *Retrofit maintenance.* Maintenance of the retrofit device will normally not be performed during the accumulation of durability mileage of 15,000 miles. However, certain retrofit devices may require periodic maintenance that is directly related to device function. An example is the periodic addition of fluid to the reservoir of a vapor injector. The Administrator will determine whether periodic maintenance will be allowed, based on his review of available information including the device manufacturer's maintenance instructions to the consumer.

(e) A log of all maintenance shall be kept for every vehicle. These logs will be summarized in the final report by the Administrator.

Subpart F—Special Test Procedures

§ 610.60 Non-standard ambient conditions.

(a) *Extreme temperatures.* For vehicles required to be tested at extreme temperatures, the test sequence described in § 610.41 will be performed using either test track or dynamometer, in ambient temperatures outside the 60° to 90° range specified in § 610.64 as determined by the Administrator. The driveability tests described in § 610.62 may also be performed at non-standard temperatures, as determined to be necessary by the Administrator.

(b) *High altitudes.* Vehicles required to be tested at high altitudes will undergo the tests described in § 610.43 if necessary, on either test track or dynamometer as determined by the Administrator. One test location, at an elevation of no less than 4000 feet, will be selected.

§ 610.61 Engine dynamometer tests.

The Administrator will choose a test procedure or procedures from various engine dynamometer durability test procedures used by research organizations in government, the oil industry, engine manufacturing companies, and independent laboratories.

§ 610.62 Driveability tests.

Driveability assessment (at normal ambient temperatures) of the baseline configuration, of the adjusted configuration (if required by the Administrator), and of the fully retrofitted configuration may be conducted at zero device-miles for all vehicles included in the durability fleet, and at approximately zero device-miles at low ambient temperatures (0°F-20°F). Driveability evaluation procedures will be provided by the Administrator when necessary.

§ 610.63 Performance tests.

The effect of a device on a vehicle's performance will be determined by performing wide-open-throttle 0 to 60 mph acceleration tests (at normal ambient temperatures) on the baseline vehicle configuration, on the adjusted configuration (if required), and on the fully retrofitted configuration. Tests will be conducted on a dry, level, smooth-surfaced test track, with appropriate speed-time measuring equipment, on as many vehicles as determined to be necessary.

§ 610.64 Track test procedures.

(a) Cases may arise where it will be necessary to evaluate the fuel economy effects of a retrofit device on a test track, because the effect of the device cannot be adequately tested using the chassis dynamometer procedures. (An obvious example is a device that changes the aerodynamic drag of the test vehicle.) In such cases, testing will be performed on a dry, level, smooth-surfaced test track for such dimensions that the speeds required by the city and highway fuel economy tests may be safely achieved.

(1) Because aerodynamic drag is not a linear function of velocity, it will be necessary to limit testing to times when the wind velocity is less than 5 mph, with gusts less than 10 mph.

(2) Testing will also be limited to ambient temperatures between 60° and 90° F, and to times when the ambient temperature remains reasonably constant during individual tests. Temperature differences between tests of baseline and retrofit configurations will also be minimized.

(3) Exhaust emissions will not be measured during track testing.

(4) Fuel economy of a vehicle running on a track will be measured using either a volumetric or gravimetric procedure approved by the Administrator.

(5) Vehicle speed and distance will be measured with a "fifth wheel" type of device. Suitable apparatus will be used to generate a permanent record (strip chart recorder, etc.) of the vehicle speed versus time.

(b) *City fuel economy test.* Although essentially the same procedures will be used for track testing as for dynamometer testing, some modifications will be necessary to insure safe operation of the test vehicle and to adjust to the requirements of track testing.

(1) An assistant to the driver will be necessary to steer the vehicle, so that the driver will not be distracted from following the speed-time schedules used in the Federal test procedure.

(2) The test vehicle will be preconditioned within the same time constraints given in § 610.43(a)(1)(ii). Preconditioning may take place either on the track or on a dynamometer. The 12-hour soak after preconditioning will take place in an area where the ambient temperature will remain within the 60° to 90° F range, indoors, if necessary.

(3) The vehicle will be transported to the test track without being started. If the distance from soak area to track is no greater than one-quarter mile, then the vehicle may be pushed or towed to the track. Otherwise the vehicle must be transported by truck or trailer.

(4) Fuel economy will be determined by either a gravimetric or volumetric method.

(c) *Highway fuel economy test.* The highway test will follow the city fuel economy test in the same manner as in dynamometer tests (§ 610.43(b)). Fuel economy will be measured by gravimetric or volumetric methods.

(d) *Steady state tests.* Steady state tests on the track will be run in the same manner as on the dynamometer except that fuel economy will be measured by gravimetric or volumetric methods.

§ 610.65 Other test procedures.

The Administrator may, pursuant to § 610.31(c), choose a test procedure or procedures from those used by research organizations in government, the oil industry, engine manufacturing companies, and independent laboratories. If none of these is deemed suitable, the Administrator may, in consultation with the party requesting the test, design a dynamometer, track or road test to measure the effects of the device.

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

PART 702—GENERAL PRACTICES AND PROCEDURES

Subpart A-B—[Reserved]

Subpart C—Citizen Suit

Sec.
702.60 Purpose.
702.61 Service of notice.
702.62 Contents of notice.

AUTHORITY: Sec. 20, TSCA, 90 Stat. 2041, (15 U.S.C. 2619).

SOURCE: 47 FR 2773, Jan. 19, 1982, unless otherwise noted.

Subpart A-B—[Reserved]

Subpart C—Citizen Suit

§ 702.60 Purpose.

Section 20 of the Toxic Substances Control Act (TSCA) authorizes any person to begin a civil action to compel performance by the Environmental Protection Agency (EPA) of TSCA non-discretionary acts or duties (section 20(a)(2)) or to restrain any violation of TSCA, or of any rule promulgated under sections 4, 5, or 6, or of any order issued under section 5 of TSCA (section 20(a)(1)). The purpose of this regulation is to prescribe procedures governing the giving of a notice of intent to file suit required by section 20(b) of TSCA as a prerequisite to beginning such civil actions.

§ 702.61 Service of Notice.

(a) *Notice as a prerequisite to suit.* Under section 20 of TSCA, no civil action may be commenced by a citizen to restrain a violation of TSCA, or a rule or order thereunder, unless at least 60 days in advance the citizen has given notice of the intent to file suit to the Administrator and to the person who is alleged to have committed the violation. No civil action may be commenced by a citizen to compel the Administrator to perform any non-discretionary act or duty under TSCA, unless at least 60 days in advance the citizen has given notice of the intent to file suit to the Administrator. However, in the case of an alleged failure by the Administrator to file an action under section 7 of TSCA, the citizen must give notice to the Administrator only 10 days in advance of filing the civil action.

(b) *Method of service.* Notice of intent to file suit can be either personally served or served by certified mail—return receipt requested—to persons identified in paragraph (d) of this section.

(c) *Date of service.* The effective date of service of a notice given in accordance with this rule shall be the date of the return receipt, if served by mail, or the date of receipt if personally served.

(d) *Persons to be served*—(1) *Violations of TSCA rules or TSCA order.* (i) If the alleged violator is a private individual or a corporation, notice of intent to file suit shall be served on the individual or the owner or managing agent of the plant, facility, or activity alleged to be in violation. If the alleged violator is a corporation, a copy of the notice shall also be sent to the registered agent, if any, of such corporation in the State in which such violation is alleged to have occurred. Notice shall also be served on the Administrator of the EPA.

(ii) If the alleged violator is a State or local government entity, notice of intent to file suit shall be served on the head of the agency. Notice shall also be served on the Administrator of the EPA, and a copy shall be sent to the Attorney General of the United States.

(iii) If the alleged violator is a Federal agency, notice of intent to file suit shall be served on the head of the agency. Notice shall also be served on the Administrator of the EPA, and a copy shall be sent to the Attorney General of the United States.

(2) *Performance of non-discretionary TSCA acts or duties.* Notice of intent to file suit shall be served on the Administrator of the EPA and a copy shall be sent to the Attorney General of the United States.

(3) *Address of persons to be served.* (A) EPA Administrator: 401 M St., SW., Washington, DC 20460. (B) At-

torney General of the United States: 10th and Constitution Ave., NW., Washington, DC 20530.

§ 702.62 Contents of notice.

(a) *Violation of TSCA rule or TSCA order.* Notice of intent to file suit regarding an alleged violation of TSCA or any rule promulgated under sections 4, 5, or 6, or an order issued under section 5, shall include sufficient information to permit the recipient to identify:

(1) The specific provision of TSCA or of the rule or order under TSCA alleged to have been violated.

(2) The activity alleged to constitute a violation.

(3) The person or persons responsible for the alleged violation.

(4) The location of the alleged violation.

(5) The date or dates of the alleged violation as closely as the citizen is able to specify them.

(6) The full name, address, and telephone number of the citizen giving notice.

(b) *Failure to act.* Notice regarding an alleged failure of the Administrator to perform any act or duty which is not discretionary shall:

(1) Identify the specific provision of TSCA which requires an act or creates a duty.

(2) Describe with reasonable specificity the action taken or not taken by the Administrator which is alleged to constitute a failure to perform the act or duty.

(3) State the full name, address, and telephone number of the citizen giving the notice.

(c) *Identification of Counsel.* The notice shall state the name, address, and telephone number of the Legal Counsel, if any, representing the citizen giving the notice.

PART 704—REPORTING AND RECORDKEEPING REQUIREMENTS

Subparts A—D [Reserved]

Subpart E—Specific Chemical Reporting Requirements

§ 704.95 Polybrominated Biphenyls (PBBs) and Tris (2,3-dibromopropyl) phosphate; submission of notice of manufacture or import.

(a) *Scope.* This rule establishes procedures governing reporting by persons who manufacture or import or who propose to manufacture or import Tris, or PBBs which have been reported for the TSCA Chemical Substances Inventory under 40 CFR Part 710.

(b) *Compliance.* Violation of the requirements of this rule may result in civil penalty or criminal prosecution, as provided in sections 15 and 16 of TSCA. In addition, under section 17, the Government may seek judicial relief to compel submission or required information.

(c) *Definitions.* All definitions as set forth in the Toxic Substances Control Act (TSCA) section 3 apply for this rule. In addition, the following definitions are provided for the purposes of this rule.

(1) "Article" means a manufactured item (i) which is formed to a specific shape or design during manufacture, (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (iii) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

(2) "Byproduct" means a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

(3) "EPA" means the United States Environmental Protection Agency.

(4)(i) "Importer" means any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the United States, and includes: (A) The person primarily liable for the payment of any duties on the merchandise, or (B) and authorized agent acting on his behalf (as defined in 19 CFR 1.11).

(ii) Importer also includes, as appropriate:

(A) The consignee.

(B) The importer of record.

(C) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(D) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition, the customs territory of the United States consists of the 50 states, Puerto Rico, and the District of Columbia.

(5) "Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers, if the chemical substance is intended to be removed from the container and the substance has an end use or commercial purpose separate from the container.

(6) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(7) "Manufacture" means to manufacture for commercial purposes.

(8)(i) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture.

(A) For commercial distribution, including for test marketing, and

(B) For use by the manufacturer, including use for product research and development, or as an intermediate.

(ii) Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture. Such byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(9) "Person" includes any individual, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof; any municipality; any interstate body; and any department, agency, or instrumentality of the Federal Government.

(10) "PBBs" (polybrominated biphenyls) means chemical substances the compositions of which, without regard to impurities, consist of brominated biphenyl molecules having the molecular formula $C_{12}H_xBr_y$ where $x+y=10$ and y ranges from 1 to 10.

(11) "Propose to manufacture or import PBBs or Tris" means that a person has made a firm management decision to commit financial resources for the manufacture or import of PBBs and Tris.

(12) "Small manufacturer or importer" means a manufacturer or importer whose total annual sales are less than $500,000, based upon the manufacturer's or importer's latest complete fiscal year, except that no manufacturer or importer is a small manufacturer or importer with respect to PBBs or Tris which such person manufactured at one site or imported in quantities greater than 10,000 pounds during the latest calendar year. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

(13) "Tris" means tris (2,3-dibromopropyl) phosphate (also commonly named DBPP, TBPP, and Tris-BP).

(14) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

(d) *Persons who must report.* Except as provided in paragraph (h) of this section, the following persons are subject to the rule:

(1) Persons who manufacture or propose to manufacture Tris, or PBBs which have been reported for the Inventory.

(2) Persons who import (importers) or propose to import Tris, or PBBs which have been reported for the Inventory, as a chemical substance in bulk or as part of a mixture.

(e) *Persons not subject to this rule.* The following persons are not subject to this rule:

(1) Persons who are small manufacturers or importers, as defined in paragraph (c)(12) of this section.

(2) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris solely for research and development.

(3) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris as a byproduct or impurity.

(4) Persons who import or propose to import PBBs or Tris as part of an article.

(f) *Reporting requirements.* (1) Persons subject to this rule as described in paragraph (d) of this section must notify EPA of current or proposed manufacture or import of PBBs or Tris. Persons who are manufacturing or importing PBBs or Tris on the effective date of the rule must notify EPA within 30 days of the effective date of the rule. Persons who propose to manufacture or import PPBs or Tris must notify EPA within 15 days when they propose to manufacture or import the substance.

(2) The notice must include, to the extent that it is known to the person making the report or is reasonably ascertainable, the following information:

(i) Company name and address.

(ii) Principal technical contact.

(iii) A description of the use or intended use for the PBBs or Tris.

(iv) Estimated number of persons exposed to the PBBs or Tris during manufacture or importation, processing, distribution, use, and disposal.

(v) Quantity (by weight) manufactured or imported within twelve months prior to the effective date of the rule and/or estimated quantity (by weight) to be manufactured or imported in the foreseeable future.

(vi) The proposed date for the initiation of manufacturing or importation of PBBs or Tris, if appropriate.

(3) Notices shall be submitted by certified mail to the Document Control Officer, for TSCA, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, Washington, DC 20460. ATTN: PBB notification or Tris notification.

(g) *Confidentiality claims.* (1) Any person submitting a notice under this rule may assert a business confidentiality claim covering all or any part of the notice. Any information covered by a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Part 2 of this title.

(2) If no claim accompanies the notice at the time it is submitted to EPA, the notice will be placed in an open file available to the public without further notice to the respondent.

(3) To assert a claim of confidentiality for data contained in a notice, the respondent must submit two copies of the notice.

(i) One copy of the notice must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as ""confidential", "proprietary", or "trade secret".

(ii) If some data in the notice are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.

(iii) The first copy of the notice will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(iv) Failure to furnish a second copy of the notice when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent has 15 days from the date of receipt of notification to submit the required second copy. Failure to submit the second copy will cause EPA to place the first copy in the public file.

(4) In submitting a claim of confidentiality, a person attests to the truth of the following four statements concerning all information which is claimed confidential:

(i) My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

(ii) The information is not, and has not been, reasonably obtainable without our consent by other persons (other than government bodies) by use of ligitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

(iii) The information is not publicly available eslewhere.

(iv) Disclosure of the information would cause substantial harm to our competitive position.

(h) *Sunset provision.* The reporting requirements of paragraph (f) of this section will terminate on May 1, 1985.

(Sec. 8a, Pub. L. 94-169, 90 Stat. 2027, (15 U.S.C. 2607a))

[46 FR 33525, June 30, 1981]

PART 707—CHEMICAL IMPORTS AND EXPORTS

Subparts A—C [Reserved]

Subpart D—Notices of Export Under Section 12(b)

Sec.
707.60 Applicability and compliance.
707.63 Definitions.
707.65 Submission to agency.
707.67 Contents of notice.
707.70 EPA notice to foreign governments.
707.75 Confidentiality.

AUTHORITY: Sec. 12(b), Pub. L. 94-469, 90 Stat. 2033 (15 U.S.C. 2611(b)).

SOURCE: 45 FR 82850, Dec. 16, 1980, unless otherwise noted.

Subparts A—C [Reserved]

Subpart D—Notices of Export Under Section 12(b)

§ 707.60 Applicability and compliance.

(a) Section 12(b) of the Toxic Substances Control Act requires any person who exports or intends to export a chemical substance or mixture to notify the Environmental Protection Agency of such exportation to a particular country if any of the following actions have been taken under the Act with respect to that chemical substance or mixture:

(1) Data are required under section 4 or 5(b),

(2) An order has been issued under section 5,

(3) A rule has been proposed or promulgated under section 5 or 6, or

(4) An action is pending, or relief has been granted under section 5 or 7.

(b) No notice of export will be required for articles, except PCB articles, unless the Agency so requires in the context of individual Section 5, 6, or 7 actions.

(c) Any person who exports or intends to export polychlorinated biphenyls (PCBs) or PCB articles, for any purpose other than disposal, shall notify EPA of such intent or exportation under section 12(b). PCBs and PCB articles have the definitions published in §§ 761.2(s) and 761.2(f) of this title respectively.

(d) Any person who would be prohibited by a Section 5 or 6 regulation from exporting a chemical substance or mixture, but who is granted an exemption by EPA to export that chemical substance or mixture, shall notify EPA under section 12(b) of such intent to export or exportation.

(e) Failure to comply with section 12(b) as set forth in these rules will be considered a violation of section 15(3) of the Toxic Substances Control Act, and will subject the exporter to the penalty, enforcement, and seizure provisions of sections 16 and 17 of the Toxic Substances Control Act.

§ 707.63 Definitions.

The definitions set forth in the Toxic Substances Control Act, section

3, apply for this part. In addition, the following abbreviations and definitions are provided for purposes of this rule:

(a) "EPA" means the Environmental Protection Agency.

(b) "Exporter" means the person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the chemical substance or mixture to a destination out of the customs territory of the United States.

(c) "Regulated chemical" means any chemical substance or mixture for which export notice is required under § 707.60.

(d) "TSCA" means the Toxic Substances Control Act.

§ 707.65 Submission to agency.

(a) Exporters must notify EPA of their export or intended export of each regulated chemical in accordance with the following:

(1) The notice must be in writing;

(2) The notice must be for the first export or intended export to a particular country in a calendar year;

(3) The notice must be postmarked within seven days of forming the intent to export or on the date of export, whichever is earlier. A notice of intent to export must be based on a definite contractual obligation, or an equivalent intra-company agreement, to export the regulated chemical.

(b) If the EPA action that prompts the notice is a proposed rule, the requirement to submit export notices to EPA shall begin thirty days after publication of the action in the FEDERAL REGISTER.

(c) Notices shall be marked "Section 12(b) Notice" and sent to the Document Control Officer, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, Rm. E-447, 401 M Street, SW, Washington, DC 20460.

§ 707.67 Contents of notice.

The notice to EPA shall include:

(a) The name of the regulated chemical as it appears in the section 4, 5, 6, or 7 action. If a category is regulated, the name of the individual regulated chemical within that category, as well as the category, must be given. The name shall be that which appears in Volume I of the EPA Chemical Substance Inventory, or its supplements, if the chemical appears there.

(b) The name and address of the exporter.

(c) The country (countries) of import.

(d) The date(s) of export or intended export.

(e) The section (4, 5, 6, or 7) of TSCA under which EPA has taken action.

§ 707.70 EPA notice to foreign governments.

(a) Notice by EPA to the importing country shall be sent no later than five working days after receipt by the Document Control Officer of the first annual notification for each regulated chemical.

(b) Notices shall:

(1) Identify the regulated chemical.

(2) Summarize the regulatory action taken, or indicate the availability of data under section 4 or 5(b) of TSCA.

(3) Identify an EPA official to contact for further information.

(4) Include a copy of the pertinent FEDERAL REGISTER notice.

(c) Notices shall be sent to the country's ambassador in Washington, DC, or other official designated by the foreign government, and to the United States Department of State.

§ 707.75 Confidentiality.

(a) A person may assert a claim of confidentiality for any information which is submitted to EPA in a notice.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA. In the notice, the submitter must clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as "confidential business information", "proprietary", or "trade secret".

(c) Notwithstanding any claim of confidentiality, information outlined in § 707.70 will be included in the EPA notice to the foreign government. With this exception, EPA will disclose information that is covered by a claim of confidentiality asserted in accordance with this section only to the extent permitted by, and in accordance with, the procedures set forth in TSCA and Part 2 of this chapter.

(d) If a person does not assert a claim of confidentiality for information at the time a notice is submitted to EPA, the Agency may make the information public, including placement in a public file, without further notice to the person.

PART 710—INVENTORY REPORTING REGULATIONS

Sec.
710.1 Scope and compliance.
710.2 Definitions.
710.3 Applicability; reporting for the initial inventory and revised inventory: Who must report; who should report.
710.4 Scope of the inventory.
710.5 How to report.
710.6 When to report.
710.7 Confidentiality.
710.8 Effective date.

AUTHORITY: Sec. 8(a), Toxic Substances Control Act (TSCA) (90 Stat. 2003 (15 U.S.C. 2607(a))).

SOURCE: 42 FR 64572, Dec. 23, 1977, unless otherwise noted.

§ 710.1 Scope and compliance.

(a) This part establishes regulations governing reporting by certain persons who manufacture, import, or process chemical substances for commercial purposes under section 8(a) of the Toxic Substances Control Act (15 U.S.C. 2607(a)). Section 8(a) authorizes the Administrator to require reporting of information necessary for administration of the Act and requires EPA to issue regulations for the purpose of compiling an inventory of chemical substances manufactured or processed for a commercial purpose, as required by section 8(b) of the Act. Following an initial reporting period, EPA will publish an initial inventory of chemical substances manufactured or imported for commercial purposes. After a supplemental reporting period, EPA will publish a revised inventory including those additional chemical substances processed or used for commercial purposes or imported for commercial purposes as a part of a mixture or article. Further, in accordance with section 8(b), EPA periodically will amend the inventory to include new chemical substances which are manufactured or imported for a commercial purpose and reported under section 5(a)(1) of the Act. EPA also will revise the categories of chemical substances and make other amendments as appropriate.

(b) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under these reporting regulations. In addition, section 15(3) makes it unlawful for any person to fail to keep, and permit access to, records required by these regulations. Section 16 provides that any person who violates a provision of section 15 is liable to the United States for a civil penalty and may be criminally prosecuted. Pursuant to section 17, the Government may seek judicial relief to compel submission of section 8(a) information and to otherwise restrain any violation of secton 15.

NOTE: As a matter of traditional Agency policy, EPA does not intend to concentrate its enforcement efforts on insignificant clerical errors in reporting.

(c) Each person who reports under these regulations shall maintain records that document information reported under these regulations and, in accordance with the Act, permit access to, and the copying of, such records by EPA officials. Records required to be maintained under these regulations must be kept until January 1, 1983.

[42 FR 64572, Dec. 23, 1977, as amended at 45 FR 18375, Mar. 21, 1980]

§ 710.2 Definitions.

For the purposes of this part:

(a) The following terms shall have the meaning contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., and the regulations issued under such Act: "Cosmetic," "device," "drug," "food," and "food additive." In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453 et seq.; meats and meat food products, as defined in the Federal Meat Inspection Act, 21 U.S.C. 60 et seq.; and eggs and egg products, as defined in the Egg

Products Inspection Act, 21 U.S.C. 1033 et seq.

(b) The term "pesticide" shall have the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq., and the regulations issued thereunder.

(c) The following terms shall have the meaning contained in the Atomic Energy Act of 1954, 42 U.S.C. 2014 et seq., and the regulations issued thereunder: "byproduct material," "source material," and "special nuclear material."

(d) "Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

(e) "Administrator" means the Administrator of the U.S. Environmental Protection Agency, any employee or authorized representative of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any other person who shall by operation of law be authorized to carry out such functions.

(f) An "article" is a manufactured item: (1) Which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 710.4(d)(5); except that fluids and particles are not considered articles regardless of shape or design.

(g) "Byproduct" means a chemical substance produced without separate commercial intent during the manufacture or processing of another chemical substance(s) or mixture(s).

(h) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical; except that "chemical substance" does *not* include:

(1) Any mixture,

(2) Any pesticide when manufactured, processed, or distributed in commerce for use as a pesticide,

(3) Tobacco or any tobacco product, but not including any derivative products,

(4) Any source material, special nuclear material, or byproduct material,

(5) Any pistol, firearm, revolver, shells, and cartridges, and

(6) Any food, food additive, drug, cosmetic, or device, when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(i) "Commerce" means trade, traffic, transportation, or other commerce: (1) Between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce described in paragraph (i)(1).

(j) "Distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture, mean to sell or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(k) "EPA" means the U.S. Environmental Protection Agency.

(l) "Importer" means any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the U.S. and includes: (1) The person primarily liable for the payment of any duties on the merchandise, or (2) an authorized agent acting on his behalf (as defined in 19 CFR 1.11).

(m) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(n) "Intermediate" means any chemical substance:

(1) Which is intentionally removed from the equipment in which it is manufactured, and (2) which either is consumed in whole or in part in

chemical reaction(s) used for the intentional manufacture of other chemical substance(s) or mixture(s), or is intentionally present for the purpose of altering the rate of such chemical reaction(s).

NOTE: The "equipment in which it was manufactured" includes the reaction vessel in which the chemical substance was manufactured and other equipment which is strictly ancillary to the reaction vessel, and any other equipment through which the chemical substance may flow during a continuous flow process, but does not include tanks or other vessels in which the chemical substance is stored after its manufacture.

(o) "Manufacture" means to produce or manufacture in the United States or import into the customs territory of the United States.

(p) "Manufacture or import *'for commercial purposes'* " means to manufacture or import:

(1) For distribution in commerce, including for test marketing purposes, or

(2) For use by the manufacturer, including for use as an intermediate.

(q) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" does include: (1) Any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined and if, after the effective date or premanufacture notification requirements, none of the chemical substances comprising the combination is a new chemical substance, and (2) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water.

(r) "New chemical substance" means any chemical substance which is not included in the inventory compiled and published under subsection 8(b) of the Act.

(s) "Person" means any natural or juridicial person including any individual, corporation, partnership, or association, any State or political subdivision thereof, or any municipality, any interstate body and any department, agency, or instrumentality of the Federal government.

(t) "Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or (2) as part of a mixture or article containing the chemical substance or mixture.

(u) "Process for 'commercial purposes' " means to process (1) for distribution in commerce, including for test marketing purposes, or (2) for use as an intermediate.

(v) "Processor" means any person who processes a chemical substance or mixture.

(w) "Site" means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site. For the purposes of imported chemical substances, the site shall be the business address of the importer.

(x) "Small maufacturer or importer" means a manufacturer or importer whose total annual sales are less than $5,000,000, based upon the manufacturer's or importer's latest complete fiscal year as of January 1, 1978, except that no manufacturer or importer is a "small manufacturer or importer" with respect to any chemical substance which such person manufactured at one site or imported in quantities greater than 100,000 pounds during calendar year 1977. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

NOTE: The purpose of the exception to the definition is to ensure that manufacturing and importers report production volumes for all chemical substances which they manufactured at one site or imported in quantities equal to or greater than 100,000 pounds during calendar year 1977.

(y) "Small quantities for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product" (hereinafter sometimes shortened to "small quantities for research and development") means quantities of a chemical substance manufactured, imported, or processed or proposed to be manufactured, imported, or processed that (1) are no greater than reasonably necessary for such purposes and (2) after the publication of the revised inventory, are used by, or directly under the supervision of, a technically qualified individual(s).

NOTE: Any chemical substances manufactured, imported or processed in quantities less than 1,000 pounds annually shall be presumed to be manufactured, imported or processed for research and development purposes. No person may report for the inventory any chemical substance in such quantities unless that person can certify, that the substance was not manufactured, imported, or processed solely in small quantities for research and development, as defined in this section.

(z) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(aa) "Techncially qualified individual" means a person: (1) Who because of his education, training, or experience, or a combination of these factors, is capable of appreciating the health and environmental risks associated with the chemical substance which is used under his supervision, (2) who is responsible for enforcing appropriated methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks, and (3) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting the research and development activity. The responsibilities in paragraph (aa)(3) of this section may be delegated to another individual, or other individuals, as long as each meets the criteria in paragraph (aa)(1) of this section.

(bb) "Test marketing" means the distribution in commerce of no more than a predetermined amount of a chemical substance, mixture, or article containing that chemical substance or mixture, by a manufacturer or processor to no more than a defined number of potential customers to explore market capability in a competitive situation during a predetermined testing period prior to the broader distribution of that chemical substance, mixture or article in commerce.

(cc) "United States," when used in the geographic sense, means all of the States, territories, and possessions of the United States.

§ 710.3 Applicability; reporting for the initial inventory and revised inventory: Who must report; who should report.

Based on reports from manufacturers and some importers of chemical substances, EPA will compile an initial inventory of chemical substances manufactured for commercial purposes. Paragraph (a) of this section identifies who must report for this initial inventory and who should report. After publication of the initial inventory, EPA will compile a revised inventory of chemical substances manufactured or processed for a commercial purpose based on reports from processors of chemical substances, and from importers of chemical substances as a part of mixtures or articles. Paragraph (b) of this section identifies who may report for this revised inventory. Paragraph (c) of this section identifies the persons not subject to the initial inventory.

(a) *The initial inventory*—(1) *Domestic manufacturers who must report concerning chemical substances.* Any person who manufactured a chemical substance(s) in the United States for a commercial purpose during calendar year 1977 must report concerning:

(i) All chemical substances which that person manufactured in the United States during calendar year 1977 at each site for which:

(A) Thirty percent or more of the weight of the products distributed from that site consists of products of the types described under Standard Industrial Classification (SIC) Group 28 or 2911, or

(B) The total pounds of reportable chemical substances manufactured at that site equals one million pounds or more; and

(ii) Any chemical substance not reported under paragraph (a)(1)(i) of this section that was manufactured at a site during calendar year 1977 in quantities equal to or greater than 100,000 pounds.

NOTE: Any person who is a "small manufacturer," as defined in § 710.2, and who has more than one site, is exempt from separately reporting the chemical substances manufactured at each site.

(2) *Importers who must report concerning chemical substances.* Any person who imported a chemical substance into the United States for a commercial purpose during calendar year 1977 must report concerning:

(i) All chemical substances which that person imported into the United States during calendar year 1977 if:

(A) Thirty percent or more of the weight of the products imported consists of products of the types described under Standard Industrial Classification (SIC) Group 28 or 2911, or

(B) The total pounds of reportable chemical substances imported equals one million pounds or more; and

(ii) Any chemical substance not reported under paragraph (a)(2)(i) of this section that was imported during calendar year 1977 in quantities equal to or greater than 100,000 pounds.

NOTE: These reporting requirements include all chemical substances imported in bulk form, including in cans, bottles, drums, barrels, packages, tanks, bags and other containers, but do not include chemical substances imported as part of mixtures or articles.

(3) *Other manufacturers and importers who should report chemcial substances.* (i) In order to ensure that a chemical substance is included in the initial inventory, any person who manufactures or imports, or who has manufactured or imported a chemical substance (including the importation of a chemical substance as part of a mixture or an article) for a commercial purpose since January 1, 1975, may report concerning that chemical substance.

(ii) Any person permitted to report under paragraph (a)(3) of this section may either report individually or, in accordance with § 710.5(f), authorize a trade association or other agent to report on his behalf.

(b) *Revised inventory.* (1) During the reporting period for the revised inventory (§ 710.6(c)), a person may report concerning a chemical substance which was not included in the initial inventory if:

(i) The person has processed or used the chemical substance (including use in the manufacture of a mixture or article containing that chemical substance) for a commercial purpose since January 1, 1975; or

(ii) The person has imported the chemical substance as part of a mixture or article for a commercial purpose since January 1, 1975.

(2) Any person permitted to report under paragraph (b) of this section either may report individually or, in accordance with § 710.5(f), may authorize a trade association or other agent to report on his behalf.

NOTE: The premanufacture notification requirements of section 5(a)(1)(A) of the Act for manufacturers of new chemical substances and importers of new chemical substances in bulk will begin 30 days after the publication of the initial inventory and will apply to all chemical substances not included in the initial inventory. The premanufacture notification requirements of section 5(a)(1)(A) will not be applied to importers of chemical substances as part of a mixture until 30 days after publication of the revised inventory. In addition, section 15(2) of the Act as it relates to section 5(a)(1)(A) will not be applied to persons who process or use for a commercial purpose chemical substances not on the inventory until after publication of the revised inventory.

(c) *Persons not subject to the initial inventory.* Persons who have only processed or used a chemical substance for a commercial purpose are not subject to the initial inventory requirements.

§ 710.4 Scope of the inventory.

(a) *Chemical substances subject to these regulations.* Only chemical substances which are manufactured, imported, or processed "for a commercial purpose," as defined in § 710.2, are subject to these regulations.

(b) *Naturally occurring chemical substances automatically included.* Any chemical substance which is naturally occurring and:

(1) Which is (i) unprocessed or (ii) processed only by manual, mechanical, or gravitational means; by dissolution in water; by flotation; or by heating solely to remove water; or

(2) Which is extracted from air by any means, shall automatically be included in the inventory under the category "Naturally Occurring Chemical Substances." Examples of such substances are: raw agricultural commodities; water, air, natural gas, and crude oil; and rocks, ores, and minerals.

(c) *Substances excluded by definition or section 8 (b) of TSCA.* The following substances are excluded from the inventory:

(1) Any substance which is not considered a "chemical substance" as provided in subsection 3(2)(B) of the Act and in the definition of "chemical substance" in § 710.2(h);

(2) Any mixture as defined in § 710.2(q);

NOTE: A chemical substance that is manufactured as part of a mixture is subject to these reporting regulations. This exclusion applies only to the mixture and not to the chemical substances of which the mixture is comprised. The term "mixture" includes alloys, inorganic glasses, ceramics, frits, and cements, including Portlant cement.

(3) Any chemical substance which is manufactured, imported, or processed solely in small quantities for research and development, as defined in § 710.2(y); and

(4) Any chemical substance not manufactured, processed or imported for a commercial purpose since January 1, 1975.

(d) *Chemical substances excluded from the inventory.* The following chemical substances are excluded from the inventory. Although they are considered to be manufactured or processed for a commercial purpose for the purpose of section 8 of the Act, they are not manufactured or processed for distribution in commerce as chemical substances *per se* and have no commercial purpose separate from the substance, mixture, or article of which they may be a part.

NOTE: In addition, chemical substances excluded here will not be subject to premanufacture notification under section 5 of the Act.

(1) Any impurity.

(2) Any byproduct which has no commercial purpose.

NOTE: A byproduct which has commercial value only to municipal or private organizations who (i) burn it as a fuel, (ii) dispose of it as a waste, including in a landfill or for enriching soil, or (iii) extract component chemical substances which have commercial value, may be reported for the inventory, but will not be subject to premanufacturing notification under section 5 of the Act if not included.

(3) Any chemical substance which results from a chemical reaction that occurs incidental to exposure of another chemical substance, mixture, or article to environmental factors such as air, moisture, microbial organisms, or sunlight.

(4) Any chemical substance which results from a chemical reaction that occurs incidental to storage of another chemical substance, mixture, or article.

(5) Any chemical substance which results from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleansers or other housekeeping products, fuels and fuel additives, water softening and treatment agents, photographic, films, batteries, matches, and safety flares, and which is not itself manufactured for distribution in commerce or for use as an intermediate.

(6) Any chemical substance which results from a chemical reaction that occurs upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, or paints; or other chemical substances formed during manufacture of an article destined for the marketplace without further chemical change of the chemical substance except for those chemical changes that may occur as described elsewhere in this § 710.4(d).

(7) Any chemical substance which results from a chemical reaction that occurs when (i) a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, surfactant, plasticizer, corrosion inhibitor, antifoamer or defoamer, dispersant, precipitation inhibitor, binder, emulsifier, de-emulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH neutralizer, sequesterant, coagulant, flocculant, fire retardant, lubricant, chelating agent, or quality control reagent functions as intended or (ii) a chemical substance, solely intended to impart a specific physicochemical characteristic, functions as intended.

(8) Chemical substances which are not intentionally removed from the equipment in which they were manufactured.

NOTE: See note to definition of "intermediate" at § 710.2(n) for explanation of "equipment in which it was manufactured."

§ 710.5 How to report.

(a) *General instructions.* (1) Except for small manufacturers or small importers, any person who is required to report under § 710.3(a) (1) or (2) shall follow the reporting procedures of paragraphs (b), (c), and (d) of this section.

(2) Any person who reports under § 710.3(a)(3) shall follow the reporting procedures of paragraphs (b), (c), (d) (1) and (3) of this section. In addition, the Agency encourages these persons to report in accordance with paragraphs (d) (2) and (4) of this section. A trade association or other agent may report aggregated production data under paragraph (d)(4) of this section.

(3) Any person who is required to report under § 710.3(a) (1) or (2) and who is a small manufacturer or small importer as defined in § 710.2 shall follow the reporting procedures of paragraphs (b), (c), and (d) (1) and (3) of this section except that such person is exempt from reporting production volume (for quantities less than 100,000 pounds) and site information.

(4) Any person who reports under § 710.3(b) shall follow the reporting procedures of paragraphs (b), (c), and (d)(1) of this section.

(b) *Reporting the identity of a chemical substance.* (1) Any person reporting under these regulations should first read and carefully follow the reporting instructions, "Reporting for the Chemical Substance Inventory," published by and available through EPA.

(2) To report a chemical substance, a person should first consult the TSCA Candidate List of Chemical Substances and any amendment to the Candidate List. For assistance in using the Candidate List, consult the "Guide to the Use of the TSCA Candidate List of Chemical Substances."

(3) All persons required to report except "small manufacturers and importers" must use a separate Form A, B, or C to report chemical substances for each site. Small manufacturers and importers may report several chemical substances manufactured at different sites on one form, as appropriate.

(4) To report a chemical substance found in the Candidate List, or in an amendment to the list, a person must complete, sign, and submit EPA inventory report Form A (EPA Form No. 7710-3A). All forms, A through D, have OMB No. 1585 77011.

(5) To report a chemical substance not found in the Candidate List, or in an amendment to the list, but for which there is a Chemical Abstracts Service (CAS) Registry Number, a person must complete, sign and submit EPA inventory report Form B (EPA Form No. 7710-3B).

(6) To report a chemical substance which is not found in the Candidate List, or in an amendment to the list, and for which there is no known CAS Registry Number, a person must complete, sign, and submit EPA inventory report Form C (EPA Form No. 7710-3C). Persons must describe chemical substances on Form C as specifically as possible, in accordance with the instructions published by EPA, "Reporting for the Chemical Substance Inventory."

(7) To report a chemical substance whose chemical identity is claimed to be confidential, a person must complete, sign, and submit EPA inventory report Form C (EPA Form No. 7710-3C). In addition, he must substantiate the claim that the chemical identity is

confidential at the time he submits the form to EPA, in accordance with instructions published in "Reporting for the TSCA Inventory" and § 710.7.

NOTE: The reporting instructions also describe a reporting Form D (EPA Form No. 7710-3D). This is for additional voluntary reports which may be submitted by any person who manufactures trademarked products comprised of chemical substances and is not a substitute for any of the reports required by these regulations.

(c) *Reporting polymers.* (1) To report a polymer a person must list in the description of the polymer composition at least those monomers used at greater than two percent (by weight) in the manufacture of the polymer.

(2) Those monomers used at two percent (by weight) or less in the manufacture of the polymer may be included as part of the description of the polymer composition.

NOTE: The "percent (by weight)" of a monomer is the weight of the monomer expressed as a percentage of the weight of the polymeric chemical substance manufactured.

(d) *Reporting other information concerning a chemical substance.* (1) For purposes of the initial inventory, designate whether the person manufactures and/or imports the chemical substance. For purposes of the revised inventory, designate whether the person processes and/or imports the chemical substance.

(2) Report the site(s) at which the person manufactures and/or imports the chemical substance. The site, as defined in § 710.2(w), for importers is their business address.

(3) Designate whether the person manufactures and processes the chemical substances only within a site *and* does not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

NOTE: This requirement does not apply to importers.

(4) Report the amount of the chemical substance which the person manufactured at each site and/or imported during calendar year 1977. For each substance, report the digit (e.g., 0 through 9) which corresponds to the appropriate volume range, according to the following table. Enter "N" in the space provided for production amounts if the person did not manufacture or import the substance during calendar year 1977. Small manufacturers or importers, as defined in § 710.2(x), should enter "X" in the space provided for production amounts of less than 100,000 pounds (45,400 kilograms). If a small manufacturer or importer reports these production amounts, that person shall enter both "X" and the appropriate digits (e.g., X0, X1, or X2). For other production ranges, do not include an "X" (e.g., 3 through 9). Trade associations or other agents should enter "A" in the space provided for production amounts. If trade associations or agents report production volumes, they should enter both "A" and the appropriate digits (e.g., A2 or A6).

(0) Less than 1,000 pounds; Less than 454 kilograms.
(1) 1,000 to 10,000 pounds; 454 to 4,540 kilograms.
(2) 10,000 to 100,000 pounds; 4,540 to 45,400 kilograms.
(3) 100,000 to 1 million pounds; 45,400 to 454,000 kilograms.
(4) 1 million to 10 million pounds; 454,000 to 4.54 million kilograms.
(5) 10 million to 50 million pounds; 4.54 million to 22.7 million kilograms.
(6) 50 million to 100 million pounds; 22.7 million to 45.4 million kilograms.
(7) 100 million to 500 million pounds; 45.4 million to 227 million kilograms.
(8) 500 million to 1 billion pounds; 227 million to 454 million kilograms.
(9) over 1 billion pounds; over 454 million kilograms.
(A) Trade associations or other agents.

(e) *Importers.* (1) Any importer who reports a chemical substance for the inventory may authorize the foreign supplier of the imported chemical substance(s) to report to EPA on his behalf, if both the foreign supplier and the importer sign the declarations provided on the reporting forms. A foreign supplier may authorize an agent to act in his behalf.

(2) The importer has the ultimate responsibility for reporting all information required by this part and for the completeness and truthfulness of such information. If certain information is not or cannot be provided by the foreign supplier or his duly au-

thorized agent, it must be provided by the importer.

(f) *Trade associations or other agents.* (1) A trade association or other agent may report on behalf of any person who is not required to report for the initial inventory under § 710.3 (a)(1) and (a)(2). Accordingly, a trade association or other agent may report on behalf of a manufacturer or importer of a chemical substance who chooses to report under § 710.3(a)(3), or any processor or user of a chemical substance, or any importer of a chemical substance as part of a mixture or an article who chooses to report under § 710.3(b).

(2) For every chemical substance reported by a trade association or other agent under this section, at least one manufacturer, importer or processor must have certified to that agent, and be able to document to EPA, in accordance with § 710.1(c), that the chemical substance was manufactured, imported, or processed for a commercial purpose since January 1, 1975.

§ 710.6 When to report.

(a) All reports for the initial inventory shall be submitted by May 1, 1978.

(b) All reports concerning chemical substances which are manufactured or imported for a commercial purpose for the first time during the period from May 1, 1978 to the effective date of premanufacture notification requirements shall be submitted when such manufacturing or importation begins.

(c) All reports for the revised inventory shall be submitted within 210 days after publication of the initial inventory.

§ 710.7 Confidentiality.

(a) A manufacturer, importer, or processor may claim that for a particular chemical substance any or all of the following items of information submitted under this part are entitled to confidential treatment:

(1) Company name.

(2) Site.

(3) The specific chemical identity.

(4) Whether the chemical substance is manufactured, imported, or processed.

(5) Whether the chemical substance is manufactured and processed only within one site and not distributed for commercial purposes outside that site.

(6) The quantity manufactured, imported, or processed.

(b) Any claims of confidentiality must accompany the information at the time it is submitted to EPA. The claims must appear on the form on which the information is submitted to EPA and in the manner prescribed on the form. In addition, any claims of confidentiality must be substantiated at the time the information is submitted to EPA in the manner specified in the form instructions.

(c) Any information that is covered by a claim made as specified will be disclosed by EPA only to the extent permitted by, and by means of, the procedures set forth in this section and in Part 2 of this title (41 FR 36902).

(d) If no claim accompanies information at the time it is submitted to EPA, the information may be made public by EPA without further notice to the submitter. Failure to provide substantiation of any claim asserted on the forms will be considered a waiver of the claim and will result in a determination that the information is not entitled to confidential treatment.

(e) (1) A claim of confidentiality may be asserted concerning the specific chemical identity of a particular chemical substance. This claim may be asserted by any submitter who believes that inclusion of the specific chemical identity on the inventory would reveal the trade secret fact that the particular chemical substance is manufactured or processed for commercial purposes.

(2) If a submitter asserts such a claim the submitter must

(i) Report the specific chemical identity,

(ii) Propose a generic chemical name which is only as generic as necessary to protect the confidential identity of the particular chemical substance,

(iii) Provide a detailed, written substantiation of the claim as specified in the reporting instructions,

(iv) Agree that EPA may disclose to a person with a *bona fide* intent to manufacture the substance (as defined in paragraph (g) of this section) the fact that the particular chemical substance is included in the inventory for purposes of TSCA section 5(a)(1)(A) premanufacture notification, and

(v) Have available, and agree to furnish to EPA upon request, for the particular chemical substance, either an X-ray diffraction pattern (in the case of inorganic substances) or a mass spectrum for the particular chemical substance (in the case of most other substances), a sample of the substance in its purest form, an elemental analysis, any additional or alternative spectra, or other data that may be required to resolve uncertainties with respect to the identify of the substance. Failure to meet any of these five requirements will be considered a waiver of the claim and will result in inclusion of the particular chemical identity on the inventory.

(f) (1) If a submitter asserts that the identity of a particular chemical substance should not be included on the inventory, the submitter has met the five requirements specified in paragraph (e) of this secton, and the EPA General Counsel has made a determination, in accordance with part 2 of this Title that the particular chemical identity should not appear on the inventory because inclusion would disclose a trade secret. EPA will publish a generic chemical name in an appendix to the inventory rather than place the specific chemical identity on the inventory. Publication of a generic name in the appendix does *not* create a category for purposes of the inventory. Any person proposing to manufacture a substance included in the appendix under a generic name must submit notice under section 5(a)(1)(A) of the Act unless specifically exempted by EPA (see paragraph (g) of this section).

(2) EPA will examine the generic chemical name proposed by the submitter claiming confidentiality.

(i) If EPA determines that the generic name proposed by the submitter asserting the claim is only as generic as necessary to protect the confidential identity of the particular chemical substance, EPA will place that generic name on the inventory.

(ii) If EPA determines that the generic name proposed by the submitter asserting the claim is more generic than necessary to protect the confidential identity, EPA will ask the submitter to submit further proposed generic names.

(iii) If EPA does not agree with the further proposed generic names, EPA will choose a generic name that EPA determines is only as generic as necessary to protect the confidential identity. EPA will give 30 days notice of this choice to the submitter asserting the claim. After the end of the 30-day period EPA will place the chosen generic name on the inventory.

(g) (1) If the particular chemical substance a person is proposing to manufacture is not included on the inventory by specific name but does fall within one of the generic chemical names in the appendix entitled "Confidential Identities," the person may ask EPA whether the specific substance is included on the inventory. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture the substance.

(2) In order to establish a *bona fide* intent to manufacture the specific chemical substance the person proposing to manufacture the chemical substance must submit to EPA:

(i) A signed statement that that person intends to manufacture the substance for commercial purposes,

(ii) A description of the research and development activities he has conducted to date and the purposes for which the substance will be manufactured,

(iii) An elemental analysis,

(iv) Either an X-ray diffraction pattern (in the case of inorganic substances) or a mass spectrum (in the case of most other substances) of the particular chemical substance,

(v) A sample of the substance in its purest form, if requested, and

(vi) Any additional or alternative spectra, or other data that may be required to resolve uncertainties with respect to the identity of the chemical substance.

(3) (i) Upon receipt of the information specified in paragraph (g)(2) of this section, EPA may require the submitter who asserted the confidential-

ity claim for a specific chemical substance within the generic name to submit to EPA:

(A) Either an X-ray diffraction pattern or a mass or alternative spectrum for the substance,

(B) An elemental analysis of the substance,

(C) A sample of the substance in its purest form, if requested, and

(D) Any additional spectral or other data that may be required to resolve uncertainties with respect to the identity of the substance.

(ii) Failure to submit any of the information required by EPA under this paragraph (g)(3) will be construed as a waiver of the submitter's confidentiality claim, and EPA will place the specific chemical identity on the inventory without further notice to the submitter.

(4) EPA will compare the information submitted by the proposed manufacturer under paragraph (g)(2) of this section with the information submitted under paragraph (g)(3) of this section.

(5) If (i) the comparison of the elemental analyses and either the X-ray diffraction patterns or mass or alternative spectra is sufficiently similar to be consistent with a presumption that the chemical substances are the same, and (ii) comparison of any of the other submitted information affirms this presumption, EPA will tell the person proposing to manufacturer the particular chemical substance that the particular chemical substance is included on the inventory and, therefore, that premanufacture notification is not required.

(6) If (i) the comparison of either the X-ray diffraction patterns or the mass or alternative spectra is not sufficiently similar to be consistent with a presumption that the chemical substances are the same, and (ii) comparison of the other information affirms this conclusion, EPA will tell the person proposing to manufacture the particular substance that the information submitted does not support a conclusion that the substance is included on the inventory, and, therefore, that premanufacture notification is required.

(7) A disclosure to a person with a *bona fide* intent to manufacture a particular chemical substance will not be considered a public disclosure.

§ 710.8 Effective date.

These regulations shall take effect on January 1, 1978.

PART 712—CHEMICAL INFORMATION RULES

Subpart A—General Provisions

Sec.
712.1 Scope and compliance.
712.3 Definitions.
712.5 Method of identification of substances for reporting purposes.
712.7 Report of readily obtainable information for Subparts B and C.
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Subpart B—Manufacturers Reporting—Preliminary Assessment Information

712.20 Manufacturers and importers who must report.
712.25 Exempt manufacturers and importers.
712.28 Form and instructions.
712.30 Chemical lists and reporting periods.

AUTHORITY: Sec. 8(a), Toxic Substances Control Act, Pub. L. 94-469 (90 Stat. 2003, 15 U.S.C. 2601 et seq.).

SOURCE: 47 FR 26998, June 22, 1982, unless otherwise noted.

EFFECTIVE DATE NOTE: At 47 FR 26998, June 22, 1982, Part 712 was added, effective July 22, 1982.

Subpart A—General Provisions

§ 712.1 Scope and compliance.

This part establishes procedures for chemical manufacturers and processors to report production, use, and exposure-related information on listed chemical substances. Subpart A establishes requirements that apply to all reporting under this part. Subparts B and C, respectively, cover manufacturers' and processors' reporting.

§ 712.3 Definitions.

The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply for this part. In addition, the following definitions apply:

(a) "Byproduct" means any chemical substance or mixture produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture.

(b) "EPA" means the U.S. Environmental Protection Agency.

(c) "Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers used for purposes of transportation or containment, if the chemical substance has an end use or commercial purpose separate from the container.

(d) "Importer" means anyone who imports a chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the U.S. and includes the person liable for the payment of any duties on the merchandise, or an authorized agent on his behalf. Importer also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purposes of this definition, the customs territory of the U.S. consists of the 50 states, Puerto Rico, and the District of Columbia.

(e) "Impurity" means a chemical substance unintentionally present with another chemical substance or mixture.

(f) "Intermediate" means any chemical substance that is consumed, in whole or in part, in chemical reactions used for the intentional manufacture of other chemical substances or mixtures, or that is intentionally present for the purpose of altering the rates of such chemical reactions. (See also paragraph (j) of this section.)

(g) "Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden.

(h) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(1) For commercial distribution, including for test marketing.

(2) For use by the manufacturer, including use for product research and development, or as an intermediate. Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(i) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" does include (A) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, and if all of the chemical substances comprising the combination are included in the EPA, TSCA Chemical Substance Inventory after the effective date of the premanufacture notification requirement under 40 CFR Part 720, and (B) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water. The term mixture includes alloys, inorganic glasses, ceramics, frits, and cements, including Portland cement.

(j) "Non-isolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture. (See also paragraph (f) of this section.)

(k) "Owned or controlled by the parent company" means the parent owns or controls 50 percent or more of the other company's voting stock or other equity rights, or has the power to control the management and policies of the other company.

(l) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(m) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(n) "Site" means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site.

(o) "Test marketing" means distributing in commerce a limited amount of a chemical substance or mixture, or article containing such substance or mixture, to a defined number of potential customers, during a predetermined testing period, to explore market capability prior to broader distribution in commerce.

(p) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

§ 712.5 Method of identification of substances for reporting purposes.

(a) *Report on TSCA-regulable quantities.* Unless specifically otherwise required, respondents must report only about quantities of a chemical that is defined as a chemical substance under TSCA section 3(2).

(b) *Chemicals from natural sources.* A manufacturer of a chemical substance which is extracted from an ore, from oil, or from any other natural source must report only about the manufacturing steps for, and the uses of, that chemical, not about production of the natural source material or other crude precursors derived from the natural source material.

For example, persons who manufacture a chemical substance such as "sweetened naphtha, 64741-87-3," but do not refine the naphtha to produce "hexane, 110-54-3" would not report on hexane. Only the production of "hexane" as an isolated product must be reported—not previous production of more crude, complex substances such as naphtha from which hexane is extracted. Thus, persons who produce crude oil, ores, and other crude natural materials, but do not carry them through further manufacturing steps that produce a listed chemical have no reporting responsibilities under this Part. Note, however, that any method of extraction, refinement, or purification of a listed chemical substance is considered to be manufacturing for the purposes of this rule.

(c) *Chemical substances as marketed.* This part requires reporting about chemical substances as they are marketed or used in practice. The following preparations of a chemical substance must be reported as the substance itself, not as a mixture, since these preparations are regarded as the substance in practice.

(1) The chemical substance in aqueous solution.

(2) The chemical substance containing an additive (such as a stabilizer or other chemical) to maintain the integrity or physical form of the substance.

(3) The chemical substance in any grade of purity.

§ 712.7 Report of readily obtainable information for Subparts B and C.

TSCA section 8(a) authorizes EPA to require persons to report information that is known to or reasonably ascertainable by them. For purposes of Subparts B and C, however, a lesser standard applies. Companies must report information that is readily obtainable by management and supervisory employees responsible for manufacturing, processing, distributing, technical services, and marketing. Extensive file searches are not required.

§ 712.15 Confidentiality.

(a) Any person submitting information under this part may assert business confidentiality claims for the information as described in the pertinent reporting form and its instructions. Any information covered by a claim will be disclosed by EPA only as provided in the procedures set forth at 40 CFR Part 2.

(b) Persons must certify to the validity of a claim of confidentiality they make for information reported under this part, as specified on the reporting form.

(c) If no claim accompanies the information at the time it is submitted to EPA or if certification as to the claim is not made on the reporting form, EPA may place the information in an open file available to the public without further notice to the submitter.

Subpart B—Manufacturers Reporting—Preliminary Assessment Information

§ 712.20 Manufacturers and importers who must report.

Except as described in § 712.25, at the time a chemical substance is listed in § 712.30, the following persons must submit the "Manufacturer's Report—Preliminary Assessment Information" (as described in § 712.28) for each plant site at which they manufactured or imported the chemical substance during the reporting period specified in § 712.30:

(a) Persons who manufactured one or more of the chemical substances listed in § 712.30 for commercial purposes.

(b) Persons who imported in bulk form one or more of the chemical substances listed in § 712.30 for commercial purposes.

§ 712.25 Exempt manufacturers and importers.

(a) Persons who manufactured or imported the chemical substance during the reporting period, solely for purposes of scientific experimentation, analysis, or research, including research or analysis for product development, are not subject to reporting under § 712.20.

(b) Persons who, during the reporting period, manufactured or imported fewer than 500 kilograms (1100 pounds) of the chemical substance at a single plant site are not subject to reporting for that site under § 712.20.

(c) Persons who qualify as small manufacturers or importers in respect to a specific chemical substance listed in § 712.30 are exempt. However, this exemption does not apply with respect to any chemical in § 712.30 designated by an asterisk. A manufacturer is qualified as small and is exempt from submitting a report under this subpart for a chemical substance manufactured at a particular plant site if both of the following criteria are met:

(1) Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period;

(2) Total production of the listed substance for the reporting period was below 45,400 kilograms (100,000 pounds) at the plant site.

(d) Persons are not subject to reporting under § 712.20 if they manufactured or imported the chemical substance during the reporting period only in the following forms:

(1) As a byproduct that was not used or sold or that was formed as described in 40 CFR 710.4(d) (3) through (7).

(2) As a non-isolated interimediate.

(3) As an impurity.

[47 FR 26998, June 22, 1982; 47 FR 28382, June 30, 1982]

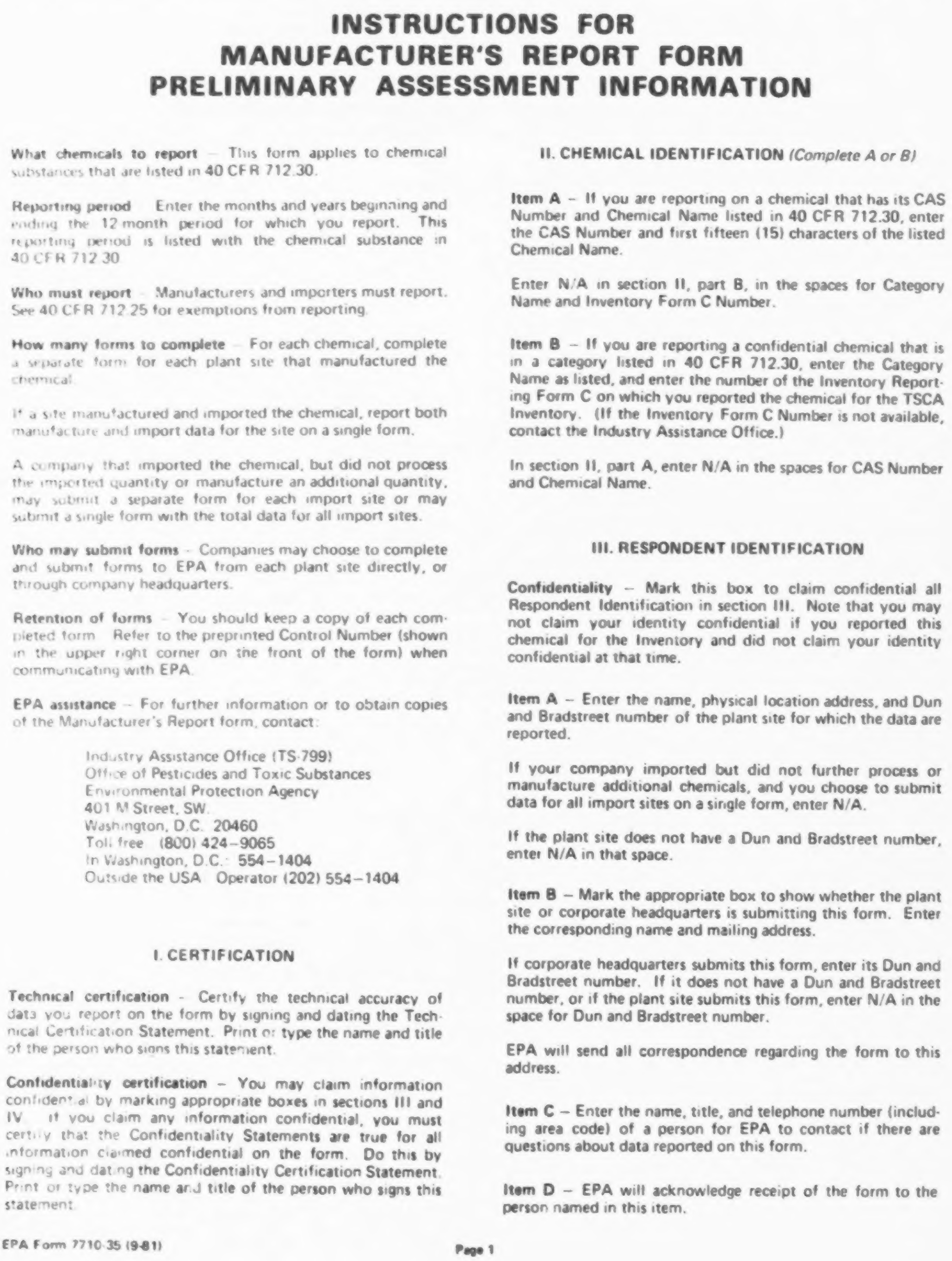
§ 712.28 Form and instructions.

(a) Manufacturers and importers subject to this Subpart must submit a single EPA Form No. 7710-35, "Manufacturer's Report—Preliminary Assessment Information," for each plant site manufacturing or importing a chemical substance listed in § 712.30.

(b) Reporting companies may submit their reports through individual plant sites or company headquarters as they choose. A separate form must be submitted for each plant site manufacturing the chemical substance.

(c) Forms must be sent to: Document Control Officer, Office of Pesticides and Toxic Substances, Environmental Protection Agency, P.O. Box 2080, Rockville, MD 20852.

(d) Instructions and a facsimile of the form are as follows:



INSTRUCTIONS FOR MANUFACTURER'S REPORT FORM PRELIMINARY ASSESSMENT INFORMATION

What chemicals to report – This form applies to chemical substances that are listed in 40 CFR 712.30.

Reporting period Enter the months and years beginning and ending the 12 month period for which you report. This reporting period is listed with the chemical substance in 40 CFR 712.30.

Who must report – Manufacturers and importers must report. See 40 CFR 712.25 for exemptions from reporting.

How many forms to complete – For each chemical, complete a separate form for each plant site that manufactured the chemical.

If a site manufactured and imported the chemical, report both manufacture and import data for the site on a single form.

A company that imported the chemical, but did not process the imported quantity or manufacture an additional quantity, may submit a separate form for each import site or may submit a single form with the total data for all import sites.

Who may submit forms - Companies may choose to complete and submit forms to EPA from each plant site directly, or through company headquarters.

Retention of forms – You should keep a copy of each completed form. Refer to the preprinted Control Number (shown in the upper right corner on the front of the form) when communicating with EPA.

EPA assistance – For further information or to obtain copies of the Manufacturer's Report form, contact:

Industry Assistance Office (TS-799)
Office of Pesticides and Toxic Substances
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460
Toll free (800) 424–9065
In Washington, D.C.: 554–1404
Outside the USA Operator (202) 554–1404

I. CERTIFICATION

Technical certification - Certify the technical accuracy of data you report on the form by signing and dating the Technical Certification Statement. Print or type the name and title of the person who signs this statement.

Confidentiality certification – You may claim information confidential by marking appropriate boxes in sections III and IV. If you claim any information confidential, you must certify that the Confidentiality Statements are true for all information claimed confidential on the form. Do this by signing and dating the Confidentiality Certification Statement. Print or type the name and title of the person who signs this statement.

II. CHEMICAL IDENTIFICATION *(Complete A or B)*

Item A – If you are reporting on a chemical that has its CAS Number and Chemical Name listed in 40 CFR 712.30, enter the CAS Number and first fifteen (15) characters of the listed Chemical Name.

Enter N/A in section II, part B, in the spaces for Category Name and Inventory Form C Number.

Item B – If you are reporting a confidential chemical that is in a category listed in 40 CFR 712.30, enter the Category Name as listed, and enter the number of the Inventory Reporting Form C on which you reported the chemical for the TSCA Inventory. (If the Inventory Form C Number is not available, contact the Industry Assistance Office.)

In section II, part A, enter N/A in the spaces for CAS Number and Chemical Name.

III. RESPONDENT IDENTIFICATION

Confidentiality – Mark this box to claim confidential all Respondent Identification in section III. Note that you may not claim your identity confidential if you reported this chemical for the Inventory and did not claim your identity confidential at that time.

Item A – Enter the name, physical location address, and Dun and Bradstreet number of the plant site for which the data are reported.

If your company imported but did not further process or manufacture additional chemicals, and you choose to submit data for all import sites on a single form, enter N/A.

If the plant site does not have a Dun and Bradstreet number, enter N/A in that space.

Item B – Mark the appropriate box to show whether the plant site or corporate headquarters is submitting this form. Enter the corresponding name and mailing address.

If corporate headquarters submits this form, enter its Dun and Bradstreet number. If it does not have a Dun and Bradstreet number, or if the plant site submits this form, enter N/A in the space for Dun and Bradstreet number.

EPA will send all correspondence regarding the form to this address.

Item C – Enter the name, title, and telephone number (including area code) of a person for EPA to contact if there are questions about data reported on this form.

Item D – EPA will acknowledge receipt of the form to the person named in this item.

EPA Form 7710-35 (9-81)

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IV PRELIMINARY ASSESSMENT INFORMATION

TSCA Regulable Quantities – Except under items 4 and 5, do not report any quantity of chemical substance that is manufactured or processed solely for use as: a pesticide; tobacco or any tobacco product, any source material, special nuclear material, or byproduct material (as terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act), firearms or ammunition, or food, food additives, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug and Cosmetic Act). The above are not TSCA regulable.

Some chemical substances are manufactured for both TSCA and non TSCA regulable purposes. Thus, under items 4 and 5, include total production of the chemical stream for both TSCA and non TSCA regulable quantities.

PART A: PLANT SITE ACTIVITIES

Accuracy – For each item, provide numbers that represent your best estimates based on readily obtainable data.

Item 1 – Enter the total quantity of the chemical substance imported in bulk during the reporting period. If you import, but do not further process the imported quantity or manufacture an additional quantity, answer this item and part B only.

Item 2 – Enter the quantity of chemical domestically manufactured during the reporting period, not counting the losses reported in item 3a.

Items 3a–3d – In 3a, report the total quantity lost in manufacture of the substance during the reporting period. Report only routine losses. Do not report unusual spills or accidents. In calculating estimates for quantities not recovered you may: (1) use measured losses, if available, or emission factors and other calculated releases from individual sources; or, (2) if these are not available, or only account for a portion of the total loss, you may make a simple mass balance estimate of expected yield minus actual yield, where actual yield is the value reported in item 2. This quantity in 3a should then be broken down into the three categories below (i.e., 3b + 3c + 3d = 3a). Specify the accuracy you report for 3b, 3c, and 3d, e.g., 1000 kg ± 30%.

3b. **Quantity lost to the environment** – This covers fugitive emissions to the atmosphere and other losses not described in 3c and 3d.

3c. **Quantity in wastes treated to destroy the chemical.**

3d. **Quantity in wastes not treated to destroy the chemical** – This includes, for example, any quantity disposed of in any landfill, surface impoundment, municipal sewage, or storage.

Items 4–7 – Items 4–7 in part A require you to describe the manufacturing process and your use of the chemical in terms of the number of workers and quantity of substance associated with three process categories. Three process categories are described below, followed by instructions for calculating quantities, worker-hours, and number of workers. Additional instructions concerning items 4 through 7 are also listed.

PROCESS CATEGORIES

Enclosed Process – The process is designed and operated so that there is no intentional release of the chemical. In this process category, only fugitive or inadvertent releases occur and special measures are taken to prevent worker exposure and environmental contamination. "Special measures" refer to procedures and equipment that are monitored and used to prevent worker exposure, and scrubbers and other recovery equipment employed to prevent environmental release. Equipment with emergency pressure relief venting would be allowed in this category; routine venting would not. With regard to handling the manufactured chemical, persons who handle closed packages containing the material would be counted under "enclosed process." Persons who package or transfer the unpackaged chemical would be counted in one of the following categories.

Controlled Release Process – The process is operated in a controlled manner to minimize release of the chemical into the workplace. Releases should generally be within prescribed limits. These limits may be dictated by government regulations or by company guidelines. If the chemical is vented outside the plant, the process is a "controlled release" process. Do not count general space ventilation fans.

Open Process – The chemical is routinely in direct contact with the atmosphere (workplace or outside the plant) and no measures are taken to prevent release. For example, reaction vessels are open vats, the chemical is transported or stored in open containers, or the chemical is freely vented into the workplace atmosphere.

QUANTITIES

Process Category – Enter the greatest quantity that is processed in each process category. If there is more than one process stream, calculate each stream separately and then add the values for each process category. If a quantity of the chemical passes in series through an enclosed process and then passes through an open process, the same quantity would be reported twice, once under each process category. (The sum of these quantities may be greater than 100% of the total quantity manufactured.)

Example 1 – A company manufactures technical grade chemical x in four steps.

350,000 kg	→	350,000 kg	→	350,000 kg	→	200,000 kg
Open		Enclosed		Open		Enclosed

The company would report:

Enclosed	350,000 kg
Controlled release	0
Open	350,000 kg

Example 2 – A company produces the same chemical in a reagent and technical grade with the following steps.

Technical Grade Process:

350,000 kg	→	350,000 kg	→	350,000 kg	→	200,000 kg
Open		Enclosed		Open		Enclosed

Reagent Grade Process:

650,000 kg	→	500,000 kg	→	500,000 kg	→	400,000 kg
Controlled Release		Controlled Release		Open		Open

The company would report:

Enclosed	350,000 kg
Controlled release	650,000 kg
Open	850,000 kg

(The open process amount is the total of the maximum quantity in the open process category from each grade.)

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Total Quantity For items 5, 6, and 7, enter the total quantity processed in all process categories. (This total may be less than the sum of the quantities reported in individual process categories.)

WORKER-HOURS

Worker-hours may be calculated for a given process category by multiplying the average number of full-time employees needed for the operation by the number of hours operating annually. Alternatively, worker-hour information may be taken from preexisting information sources such as resource planning or budget figures.

WORKERS

In reporting number of workers for each process category, count the total number of persons directly involved in manufacturing, processing, and handling the chemical during the reporting period. Count maintenance or inspection workers only if they work with the process on a routine basis. Do not count administrative staff.

Three process categories are described in the form: enclosed, controlled release, and open. A worker should be counted as working with only one process category. If he operates several process types, count him under the one with which he spends the most time. If he spends an equal amount of time with several, count him under the most open process.

Example 3 A company manufactured 1,000,000 kg of a chemical substance in 1980. It manufactured the chemical for all twelve months of the year and did so in an enclosed process.

In order to run the production line, ten (10) workers were present working 40 hour weeks; thus over the course of the year 20,800 worker-hours were used to run the production line.

Over the course of the year, twelve (12) different workers worked on the production of the chemical.

The form would then be filled out as follows:

Process category	Quantity (kg)	Worker-hours	Total workers
Open	0	0	0
Controlled release	0	0	0
Enclosed	1,000,000 kg	20,800	12

Example 4 – A company manufactured 1,000,000 kg of a chemical substance in 1980. It manufactured the chemical for the entire year in a 24 hour/day process consisting of three steps in the open, controlled release, and open process categories. The production line was shut down for maintenance for 2 weeks of the year. The production line had three 8-hour shifts. Each shift in step 1 required 5 workers, while 7 and 10 workers were needed per shift in steps 2 and 3, respectively. The total worker-hours required for each step follows:

Process category	(Shifts/day x hours/shift x workers x days/week x weeks/year)	Workers-hours
Open (Step 1)	(3 x 8 x 5 x 7 x 50)	42,000
Controlled (Step 2)	(3 x 8 x 7 x 7 x 50)	58,800
Open (Step 3)	(3 x 8 x 10 x 7 x 50)	84,000

Analysis of the personnel records showed that a total of 75 individuals worked on the production of the chemical during 1980. After examining the personnel records, the company was able to fill in the following table:

Process category	Total workers
Open (Step 1)	21
Controlled (Step 2)	19
Open (Step 3)	35
	75

Note that workers are not double counted or "split" even though some jobs may require moving from one step of the process to another step of the same process. An employee working on both step 1 and step 2 is counted only in step 1 if he/she spends most of his time at that step. After adding together steps in the same process category, the company would report as follows:

Process category	Quantity (kg)	Worker-hours	Total workers
Open	1,000,000	126,000	56
Controlled release	1,000,000	58,800	19
Enclosed	0	0	0

Item 4 – This item applies to the manufacture of the chemical substance and includes all steps to ready the chemical for further processing or use.

Item 5 – This item applies to use of the chemical at your plant site as a reactant in the manufacture of another chemical substance, where the molecular structure of the chemical is altered by breaking chemical bonds or making new chemical bonds between the original substance and some other substance. Report on all processing up to and including the actual reaction step and any ancillary steps which recycle unreacted chemicals back to the reactor vessel. Do not report on subsequent activities in this question.

Item 6 – Report the quantity of the chemical substance that you use on site. Examples include cleaning solvents, dielectric fluids, emulsifiers, and lubricants. Do not include any quantity that you react to make a product.

Item 7 – Report the quantity of the chemical substance that you process at the manufacturing site into products for on site use or sale. (Note that this does not include manufacture of the chemical substance; this is reported in item 4 above.) This item does include the quantity of chemical substance that you incorporate in a mixture or article. Report the steps up to and including incorporation of the chemical into an article; do not include any further processing of the article.

Item 8 – Report the quantity of the chemical substance that you prepare for commercial distribution in each of the product types in 8a to 8g. Do not include any quantity of chemical substance that your customers will further process. This will be reported in item 9.

In items 8a to 8f, report the quantity of the chemical substance in products that are for domestic use. If you are uncertain about whether your products are for domestic or foreign use, report them as domestic.

The products are divided into industrial and consumer products. "Industrial" means the manufacturing and service industries covered by the Standard Industrial Codes. Products meant to be used primarily by the general population are considered to be "consumer" products. The following definition from the Consumer Product Safety Act can be used as a guide (15 U.S.C. 2052(a)(1)): "The term 'consumer product' means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in

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recreation, or otherwise, or (iii) for the personal use, consumption, or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." If you are uncertain about whether your products are industrial or consumer, report them as consumer.

Three types of industrial and consumer product types are described below.

"**Chemical substance or mixture**" means a chemical, or mixture containing the chemical, that is used directly by the persons using the product, e.g., cleaners, paints, inks, deodorizers, solvents, etc. This includes chemicals or mixtures in containers or other articles whose purpose is to release the chemical (e.g., cans of spray paint, ink pens, and other applicators).

"**Articles or products with no release**" are articles constructed to prevent human exposure to or release to the environment of the chemical substance during normal use and storage (e.g., chemical coatings on internal components, and chemicals inside sealed articles as in thermometers and batteries).

"**Articles or products with some release**" are articles whose material components are made of chemicals which come in direct contact with persons using the article, the atmosphere, land, or water, e.g., exposure can come from leaching, evaporation, or surface contact. This includes such articles as plastic containers, chemically treated textiles, printed paper, coated appliances, etc. If the chemical itself is sold in a bottle or other container it should be reported under "Chemical substance or mixture," not as an article. Only the container itself is an article for purposes of this form; the substance it contains is not a component of an article.

In item 8g, report the quantity of chemical substance that you export directly either as the chemical or contained in mixtures or articles.

Item 9 - Estimate the quantity of the chemical substance that your customers process for each of the uses listed in items 9a to 9h. (Do not include the quantity of chemical substances that your customers will use without further processing; that quantity should be reported in item 8a or 8d.)

For items 9a to 9g, follow the same directions as for items 8a to 8g.

For item 9h, report the quantity of chemical substance that your customers will react to make products that do not contain the chemical substance itself.

For item 9i, report the quantity of chemical substance for which your customers' uses are unknown.

Report your best estimate for items 9a to 9h within ±50%. If you cannot estimate an item to this degree of accuracy, include the quantity in item 9i. You may report "unknown" if the data would reveal information subject to a confidentiality agreement between you and your customers.

Item 10 – If you report your customers' uses as unknown (item 9i above) for more than 20% of the total quantity that you manufacture and import (items 1 and 2 above) list the names under which you distribute the chemical substance.

This item will allow EPA, if necessary, to find out about chemical uses you have reported as "unknown" by requiring processors of your products to report directly to us.

Item 11 – This item addresses your general knowledge of the process types your customers use to process the chemical. Estimate the quantity of the chemical that your customers process in each of the three process categories. Specify "unknown" if you do not know to within ±50%.

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IMPORTANT: Before completing this form, please read the accompanying instructions carefully O.M.B. No. 2000-0420, Approval Expires 3-31-84

EPA U.S. ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W.
Washington, D.C. 20460

MANUFACTURER'S REPORT PRELIMINARY ASSESSMENT INFORMATION

This information is required under the authority of Section 8(a), Toxic Substances Control Act, 15 U.S.C. 2607

When completed send this form to:

Document Control Officer
Office of Pesticides and Toxic Substances
U.S.E.P.A.
P.O. Box 2080
Rockville, Md. 20852

CONTROL NUMBER

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Section I – CERTIFICATION

TECHNICAL CERTIFICATION STATEMENT

I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and accurate. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

Signature
Date
Name and title *Please print or type*

CONCERNING EPA DISCLOSURE OF INFORMATION

Any person who submits information to EPA under the Preliminary Assessment Information Rule (40 CFR 712) should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. These regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

CONFIDENTIALITY STATEMENTS

Information disclosed to EPA on this form may be claimed confidential by marking the appropriate boxes below. The person signing the Confidentiality Certification Statement attests to the truth of the following four statements concerning all information that is claimed confidential. Note that chemical substance identity may not be claimed confidential for this rule.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

CONFI ALITY CERTIFICATION STATEMENT

I hereby certify that the Confidentiality Statements on this form are true as to that information below for which I have asserted a confidentiality claim.

Signature
Date
Name and title *Please print or type*

Section II – CHEMICAL IDENTIFICATION

Part A

CAS No.
— —
Chemical name (first 15 characters)

Part B

Category name (first 15 characters)
Inventory Form C number

Section III – RESPONDENT IDENTIFICATION

☐ *MARK THIS BOX TO CLAIM THIS SECTION CONFIDENTIAL*

Part A – Plant Site – Physical location

Name
Number and street
City
County
State ZIP code
Dun and Bradstreet number
— —

Part B – Mailing Address of:

☐ Corporate Headquarters ☐ Plant Site

Name
Number and street
City
State ZIP code
Dun and Bradstreet number (for corporate headquarters only)
— —

Part C – Technical Contact

Name and title
Telephone (Area code number)
☐ At headquarters
☐ At plant site

Part D – Acknowledgement

EPA will send acknowledgement to: Name and title

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Section IV — PRELIMINARY ASSESSMENT INFORMATION

NOTE Mark the box to the left of any item below to claim the answer to the item as confidential. Report all quantities in kilograms (1 kilogram = 2.2 pounds). Enter N/A for any item that does not apply to you; do not leave any blanks.

Part A — Plant Site Activities Information in part A must be your best estimate from readily obtainable data. For items 3b, 3c, and 3d, specify the accuracy of your answers.

☐ **1.** Total quantity imported	kg	☐ **2.** Quantity manufactured for sale or use	kg
☐ **3 a.** Quantity lost during manufacture (3b, 3c, and 3d must equal 3a)	kg	**3 c.** Quantity in wastes treated to destroy the chemical	kg ± %
3 b. Quantity lost to the environment	kg ± %	**3 d.** Quantity in wastes not treated to destroy the chemical	kg ± %

Activity (1)	Process category (2)	Quantity (kilograms) (3)	Total worker hours (4)	Total workers (5)
☐ **4.** Manufacture of the chemical	**a.** Enclosed			
	b. Controlled release			
	c. Open			
☐ **5.** On-site use as reactant	**a.** Enclosed			
	b. Controlled release			
Total Quantity kg	**c.** Open			
☐ **6.** On-site nonreactant use of the chemical substance	**a.** Enclosed			
	b. Controlled release			
Total Quantity kg	**c.** Open			
☐ **7.** On-site preparation of products	**a.** Enclosed			
	b. Controlled release			
Total Quantity kg	**c.** Open			

☐ **8.** MANUFACTURER'S PRODUCTS — Report the quantity of the chemical substance that you prepare for each of the following

INDUSTRIAL PRODUCTS (domestic)	**a.** Chemical or mixture	kg	**CONSUMER PRODUCTS (domestic)**	**d.** Chemical or mixture	kg
	b. Article with some release	kg		**e.** Article with some release	kg
	c. Article with no release	kg		**f.** Article with no release	kg

g. Products for export → kg

Part B — Chemical Substance Processing by Customers — *Information in part B must be accurate to within ± 50%*

☐ **9.** CUSTOMERS' USES AND PRODUCTS — Estimate the quantity of the chemical substance that your customers use or prepare for each of the following

INDUSTRIAL PRODUCTS (domestic)	**a.** Chemical or mixture	kg	**CONSUMER PRODUCTS (domestic)**	**d.** Chemical or mixture	kg
	b. Article with some release	kg		**e.** Article with some release	kg
	c. Article with no release	kg		**f.** Article with no release	kg

g. Products for export → kg

h. Quantity of chemical consumed as reactant → kg

i. Unknown customer uses → kg

☐ **10.** MARKET NAMES — If you report your customers' uses as unknown (9i above) for more than 20% of the total quantity of chemical substance that you manufacture and import (20% of items 1 and 2 above), list the market names under which you distribute the chemical. If you need more space, attach an additional sheet.

a.	**c.**
b.	**d.**

☐ **11.** CUSTOMERS' PROCESS CATEGORIES — Based on your knowledge of general industry practices, estimate the quantity of chemical substance that you sell to customers as the chemical and that your customers further process in each of the following categories

a. Enclosed processes	kg	**c.** Open processes	kg
b. Controlled release processes	kg	**d.** Unknown	kg

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§ 712.30 Chemical lists and reporting periods.

(a) Persons subject to this subpart must submit a Preliminary Assessment Information Manufacturer's Report for each chemical substance or designated mixture listed below. The information in each Manufacturer's Report for a given substance or mixture must cover the respondent's latest complete corporate fiscal year as of the effective date when the substance or mixture becomes subject to this subpart. The effective date will be 30 days after the Office of Toxic Substances publishes a notice in the FEDERAL REGISTER making the substance or mixture subject to this subpart.

(b) Except as provided in paragraph (c) of this section, chemical substances and designated mixtures will be added after a notice of proposed amendment of this subpart is published in the FEDERAL REGISTER. There will be a 30 day public comment period on each notice; after consideration of the comments, a final amendment will identify the substances and mixtures added.

(c) [Reserved]

(d) A Preliminary Assessment Information Manufacturer's Report must be submitted by November 19, 1982 for each chemical substance listed below.

CAS No.	Chemical Name
64-67-5	Sulfuric acid, diethyl ester
71-55-6	Ethane, 1,1,1-trichloro-
72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt
74-87-3	Methane, chloro-
75-05-8	Acetonitrile
75-09-2	Methane, dichloro-
75-12-7	Formamide
75-21-8	Oxirane
75-38-7	Ethene, 1,1-difluoro-
75-56-9	Oxirane, methyl-
77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
77-78-1	Sulfuric acid, dimethyl ester
77-83-8	Oxiranecarboxylic acid, 3-methyl-3-phenyl-, ethyl ester
78-30-8	Phosphoric acid, tris(2-methylphenyl) ester
78-32-0	Phosphoric acid, tris(4-methylphenyl) ester
78-33-1	Phenol, 4-(1,1-dimethylethyl)-, phosphate (3:1)
78-59-1	2-Cyclohexen-1-one, 3,5,5-trimethyl-
78-87-5	Propane, 1,2-dichloro-
78-93-3	2-Butanone
79-06-1	2-Propenamide
80-62-6	2-Propenoic acid, 2-methyl-, methyl ester
81-21-0	2,4-Methano-2H-indeno[1,2-b:5,6-b']bisoxirene, octahydro-
84-61-7	1,2-Benzenedicarboxylic acid, dicyclohexyl ester
84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
85-68-7	1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester
85-70-1	1,2-Benzenedicarboxylic acid, 2-butoxy-2-oxoethyl butyl ester
87-61-6	Benzene, 1,2,3-trichloro-
87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
88-74-4	Benzenamine, 2-nitro-
89-63-4	Benzenamine, 4-chloro-2-nitro-
90-13-1	Naphthalene, 1-chloro-
92-49-9	Benzenamine, N-(2-chloroethyl)-N-ethyl-
92-52-4	1,1'-Biphenyl
95-39-6	2-Propenoic acid, bicyclo[2.2.1]hept-5-en-2-ylmethyl ester
95-47-6	Benzene, 1,2-dimethyl-
95-48-7	Phenol, 2-methyl-
95-49-8	Benzene, 1-chloro-2-methyl-
95-50-1	Benzene, 1,2-dichloro-
95-51-2	Benzenamine, 2-chloro-
95-54-5	1,2-Benzenediamine
95-63-6	Benzene, 1,2,4-trimethyl-
95-76-1	Benzenamine, 3,4-dichloro-
95-82-9	Benzenamine, 2,5-dichloro-
95-94-3	Benzene, 1,2,4,5-tetrachloro-
96-05-9	2-Propenoic acid, 2-methyl-, 2-propenyl ester
96-08-2	7-Oxabicyclo[4.1.0]heptane, 1-methyl-4-(2-methyloxiranyl)-
96-09-3	Oxirane, phenyl-
96-12-8	Propane, 1,2-dibromo-3-chloro-
96-33-3	2-Propenoic acid, methyl ester
97-02-9	Benzenamine, 2,4-dinitro-
97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
97-86-9	2-Propenoic acid, 2-methyl-, 2-methylpropyl ester
97-88-1	2-Propenoic acid, 2-methyl-, butyl ester
97-90-5	2-Propenoic acid, 2-methyl-, 1,2-ethanediyl ester
98-07-7	Benzene, (trichloromethyl)-
98-87-3	Benzene, (dichloromethyl)-
98-88-4	Benzoyl chloride

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CAS No.	Chemical Name
98-95-3	Benzene, nitro-
99-09-2	Benzenamine, 3-nitro-
99-30-9	Benzenamine, 2,6-dichloro-4-nitro-
99-56-9	1,2-Benzenediamine, 4-nitro-
100-01-6	Benzenamine, 4-nitro-
100-41-4	Benzene, ethyl-
100-42-5	Benzene, ethenyl-
100-44-7	Benzene, (chloromethyl)-
101-43-9	2-Propenoic acid, 2-methyl-, cyclohexyl ester
101-77-9	Benzenamine, 4,4′-methylenebis-
101-90-6	Oxirane, 2,2′-[1,3-phenylenebis(oxymethylene)]bis-
103-11-7	2-Propenoic acid, 2-ethylhexyl ester
103-71-9	Benzene, isocyanato-
105-16-8	2-Propenoic acid, 2-methyl-, 2-(diethylamino)ethyl ester
106-40-1	Benzenamine, 4-bromo-
106-42-3	Benzene, 1,4-dimethyl-
106-44-5	Phenol, 4-methyl-
106-46-7	Benzene, 1,4-dichloro-
106-47-8	Benzenamine, 4-chloro-
106-50-3	1,4-Benzenediamine
106-51-4	2,5-Cyclohexadiene-1,4-dione
106-63-8	2-Propenoic acid, 2-methylpropyl ester
106-71-8	2-Propenoic acid, 2-cyanoethyl ester
106-74-1	2-Propenoic acid, 2-ethoxyethyl ester
106-83-2	Oxiraneoctanoic acid, 3-octyl-, butyl ester
106-84-3	Oxiraneoctanoic acid, 3-octyl-, octyl ester
106-87-6	7-Oxabicyclo[4.1.0]heptane, 3-oxiranyl-
106-88-7	Oxirane, ethyl-
106-89-8	Oxirane, (chloromethyl)-
106-90-1	2-Propenoic acid, oxiranylmethyl ester
106-91-2	2-Propenoic acid, 2-methyl-, oxiranylmethyl ester
106-92-3	Oxirane, [(2-propenyloxy)methyl]-
108-10-1	2-Pentanone, 4-methyl-
108-31-6	2,5-Furandione
108-38-3	Benzene, 1,3-dimethyl-
108-39-4	Phenol, 3-methyl-
108-42-9	Benzenamine, 3-chloro-
108-45-2	1,3-Benzenediamine
108-70-3	Benzene, 1,3,5-trichloro-
108-88-3	Benzene, methyl-
108-90-7	Benzene, chloro-
108-94-1	Cyclohexanone
109-16-0	2-Propenoic acid, 2-methyl-, 1,2-ethanediylbis(oxy-2,1-ethanediyl) ester
110-86-1	Pyridine
111-40-0	1,2-Ethanediamine, N-(2-aminoethyl)-
114-49-8	Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, hydrobromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta
115-27-5	4,7-Methanoisobenzofuran-1,3-dione, 4,5,6,7,8,8-hexachloro-3a,4,7,7a-tetrahydro-
115-28-6	Bicyclo[2.2.1]hept-5-ene-2,3-dicarboxylic acid, 1,4,5,6,7,7-hexachloro-
115-86-6	Phosphoric acid, triphenyl ester
116-15-4	1-Propene, 1,1,2,3,3,3-hexafluoro-
117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
118-79-6	Phenol, 2,4,6-tribromo-
119-06-2	1,2-Benzenedicarboxylic acid, ditridecyl ester
119-07-3	1,2-Benzenedicarboxylic acid, decyl octyl ester
120-82-1	Benzene, 1,2,4-trichloro-
121-39-1	Oxiranecarboxylic acid, 3-phenyl-, ethyl ester
121-45-9	Phosphorous acid, trimethyl ester
121-87-9	Benzenamine, 2-chloro-4-nitro-
122-07-6	Ethanamine, 2,2-dimethoxy-N-methyl-
122-60-1	Oxirane, (phenoxymethyl)-

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CAS No.	Chemical Name
123-31-9	1,4-Benzenediol
126-99-8	1,3-Butadiene, 2-chloro-
131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
140-08-9	Ethanol, 2-chloro-, phosphite (3:1)
140-88-5	2-Propenoic acid, ethyl ester
141-32-2	2-Propenoic acid, butyl ester
141-38-8	Oxiraneoctanoic acid, 3-octyl-, 2-ethylhexyl ester
141-85-5	Benzenamine, 3-chloro-, hydrochloride
142-04-1	Benzenamine, hydrochloride
142-09-6	2-Propenoic acid, 2-methyl-, hexyl ester
142-90-5	2-Propenoic acid, 2-methyl-, dodecyl ester
145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
147-82-0	Benzenamine, 2,4,6-tribromo-
155-41-9	3-Oxa-9-azoniatricyclo[3.3.1.02,4]nonane, 7-(3-hydroxy-1-oxo-2-phenylpropoxy)-9,9-dimethyl-, bromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]
285-67-6	6-Oxabicyclo[3.1.0]hexane
286-20-4	7-Oxabicyclo[4.1.0]heptane
428-59-1	Oxirane, trifluoro(trifluoromethyl)-
470-67-7	7-Oxabicyclo[2.2.1]heptane, 1-methyl-4-(1-methylethyl)-
496-72-0	1,2-Benzenediamine, 4-methyl-
534-15-6	Ethane, 1,1-dimethoxy-
541-73-1	Benzene, 1,3-dichloro-
554-00-7	Benzenamine, 2,4-dichloro-
556-52-5	Oxiranemethanol
593-60-2	Ethene, bromo-
603-35-0	Phosphine, triphenyl-
608-27-5	Benzenamine, 2,3-dichloro-
608-93-5	Benzene, pentachloro-
615-05-4	1,3-Benzenediamine, 4-methoxy-
624-18-0	1,4-Benzenediamine, dihydrochloride
626-43-7	Benzenamine, 3,5-dichloro-
632-79-1	1,3-Isobenzofurandione, 4,5,6,7-tetrabromo-
634-66-2	Benzene, 1,2,3,4-tetrachloro-
634-90-2	Benzene, 1,2,3,5-tetrachloro-
634-93-5	Benzenamine, 2,4,6-trichloro-
635-22-3	Benzenamine, 4-chloro-3-nitro-
688-84-6	2-Propenoic acid, 2-methyl-, 2-ethylhexyl ester
689-12-3	2-Propenoic acid, 1-methylethyl ester
818-61-1	2-Propenoic acid, 2-hydroxyethyl ester
823-40-5	1,3-Benzenediamine, 2-methyl-
827-94-1	Benzenamine, 2,6-dibromo-4-nitro-
868-77-9	2-Propenoic acid, 2-methyl-, 2-hydroxyethyl ester
925-60-0	2-Propenoic acid, propyl ester
930-37-0	Oxirane, (methoxymethyl)-
1139-30-6	5-Oxatricyclo[8.2.0.04,6]dodecane, 4,12,12-trimethyl-9-methylene-, [1R-(1R*,4R*,6R*,10S*)]-
1241-94-7	Phosphoric acid, 2-ethylhexyl diphenyl ester
1309-64-4	Antimony oxide O3Sb2
1319-77-3	Phenol, methyl-
1321-64-8	Naphthalene, pentachloro-
1321-65-9	Naphthalene, trichloro-
1330-20-7	Benzene, dimethyl-
1330-61-6	2-Propenoic acid, isodecyl ester
1330-78-5	Phosphoric acid, tris(methylphenyl) ester
1335-87-1	Naphthalene, hexachloro-
1335-88-2	Naphthalene, tetrachloro-
1345-04-6	Antimony sulfide S3Sb2
1464-53-5	2,2'-Bioxirane
1663-39-4	2-Propenoic acid, 1,1-dimethylethyl ester
1817-73-8	Benzenamine, 2-bromo-4,6-dinitro-

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CAS No.	Chemical Name
1937-37-7	2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4′-[(2,4-diaminophenyl)azo][1,1′-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt
2082-81-7	2-Propenoic acid, 2-methyl-, 1,4-butanediyl ester
2156-96-9	2-Propenoic acid, decyl ester
2210-28-8	2-Propenoic acid, 2-methyl-, propyl ester
2223-82-7	2-Propenoic acid, 2,2-dimethyl-1,3-propanediyl ester
2234-13-1	Naphthalene, octachloro-
2238-07-5	Oxirane, 2,2′-[oxybis(methylene)]bis-
2358-84-1	2-Propenoic acid, 2-methyl-, oxydi-2,1-ethanediyl ester
2425-79-8	Oxirane, 2,2′-[1,4-butanediylbis(oxymethylene)]bis-
2426-08-6	Oxirane, (butoxymethyl)-
2426-54-2	2-Propenoic acid, 2-(diethylamino)ethyl ester
2455-24-5	2-Propenoic acid, 2-methyl-, (tetrahydro-2-furanyl)methyl ester
2461-18-9	Oxirane, [(dodecyloxy)methyl]-
2499-95-8	2-Propenoic acid, hexyl ester
2528-36-1	Phosphoric acid, dibutyl phenyl ester
2530-85-0	2-Propenoic acid, 2-methyl-, 3-(trimethoxysilyl)propyl ester
2602-46-2	2,7-Naphthalenedisulfonic acid, 3,3′-[[1,1′-biphenyl]-4,4′-diylbis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt
2610-05-1	1,3-Naphthalenedisulfonic acid, 6,6′-[(3,3′-dimethoxy[1,1′-biphenyl]-4,4′-diyl)bis(azo)]bis[4-amino-5-hydroxy-, tetrasodium salt
2687-25-4	1,2-Benzenediamine, 3-methyl-
2855-19-8	Oxirane, decyl-
2867-47-2	2-Propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester
2905-65-9	Benzoic acid, 3-chloro-, methyl ester
3076-04-8	2-Propenoic acid, tridecyl ester
3083-25-8	Oxirane, (2,2,2-trichloroethyl)-
3132-64-7	Oxirane, (bromomethyl)-
3194-55-6	Cyclododecane, 1,2,5,6,9,10-hexabromo-
3775-90-4	2-Propenoic acid, 2-methyl-, 2-[(1,1-dimethylethyl)amino]ethyl ester
3953-10-4	2-Propenoic acid, 2-ethylbutyl ester
4016-11-9	Oxirane, (ethoxymethyl)-
4016-14-2	Oxirane, [(1-methylethoxy)methyl]-
4835-11-4	1,6-Hexanediamine, N,N′-dibutyl-
5388-62-5	Benzenamine, 4-chloro-2,6-dinitro-
5455-98-1	1H-Isoindole-1,3(2H)-dione, 2-(oxiranylmethyl)-
5536-61-8	2-Propenoic acid, 2-methyl-, sodium salt
6033-05-2	Morphinan-3,6-diol, 7,8-didehydro-4,5-epoxy-17-methyl-(5.alpha.,6.alpha.)-, (Z)-9-octadecenoate (salt)
6106-46-3	Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta., compd. with methyl nitrate (1:1)
6106-81-6	Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, N-oxide, hydrobromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.
6283-25-6	Benzenamine, 2-chloro-5-nitro-
6369-59-1	1,4-Benzenediamine, 2-methyl-, sulfate
7320-37-8	Oxirane, tetradecyl-
7440-36-0	Antimony
7446-81-3	2-Propenoic acid, sodium salt
7534-94-3	2-Propenoic acid, 2-methyl-, 1,7,7-trimethylbicyclo[2.2.1]hept-2-yl ester, exo-
13048-33-4	2-Propenoic acid, 1,6-hexanediyl ester
13236-02-7	Oxirane, 2,2′,2″-[1,2,3-propanetriyltris(oxymethylene)]tris-
13561-08-5	Oxirane, 2,2′-[[2-(oxiranylmethoxy)-1,3-phenylene]bis(methylene)]bis-
16110-89-7	Benzenesulfonic acid, 4-[(4,6-dichloro-1,3,5-triazin-2-yl)amino]-
16715-83-6	2-Propenoic acid, 2-methyl-, 2-[bis(1-methylethyl)amino]ethyl ester
17256-39-2	2-Propanamine, 1-chloro-N,N-dimethyl-, hydrochloride

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CAS No.	Chemical Name
17977-09-2	2-Propenoic acid, 2,2-dinitropropyl ester
24442-57-7	Ethanol, 1,2-dibromo-, acetate
25085-99-8	Oxirane, 2,2′-[(1-methylethylidene)bis(4,1-phenyleneoxymethylene)]bis-, homopolymer
25134-21-8	4,7-Methanoisobenzofuran-1,3-dione, 3a,4,7,7a-tetrahydromethyl-
25155-23-1	Phenol, dimethyl-, phosphate (3:1)
25550-14-5	Benzene, ethylmethyl-
25584-83-2	2-Propenoic acid, monoester with 1,2-propanediol
25637-99-4	Cyclododecane, hexabromo-
26444-49-5	Phosphoric acid, methylphenyl diphenyl ester
26447-14-3	Oxirane, [(methylphenoxy)methyl]-
26761-40-0	1,2-Benzenedicarboxylic acid, diisodecyl ester
26761-45-5	Neodecanoic acid, oxiranylmethyl ester
29761-21-5	Phosphoric acid, isodecyl diphenyl ester
32360-05-7	2-Propenoic acid, 2-methyl-, octadecyl ester
33791-58-1	2-Propenoic acid, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1H-indenyl ester
37853-59-1	Benzene, 1,1′-[1,2-ethanediylbis(oxy)]bis[2,4,6-tribromo-
51363-64-5	Phosphoric acid, diisodecyl phenyl ester
56803-37-3	Phosphoric acid, (1,1-dimethylethyl)phenyl diphenyl ester
66108-37-0	Phosphoric acid, 2,2-bis(bromomethyl)-3-chloropropyl bis[2-chloro-1-(chloromethyl)ethyl] ester

(e) A Preliminary Assessment Information Manufacturer's Report must be submitted by November 19, 1982 on confidential chemicals in the following categories. A chemical is confidential only if EPA upheld the respondent's claim of confidential identity for the TSCA Chemical Substance Inventory:

Alkyl phthalates—all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid).

Aryl phosphates—phosphate esters of phenol or of alkyl-substituted phenols. Tri-aryl and mixed alkyl and aryl esters are included but tri-alkyl esters are excluded.

Glycidol derivatives—C_2H_3O-CH_2O-R where R is an alkyl, alkenyl, alkynyl, aryl, or acyl group. Any substituent or functional group may be present on the alkyl, etc. groups.

PART 723—PREMANUFACTURE NOTIFICATION EXEMPTIONS

Subpart A [Reserved]

Subpart B—Specific Exemptions

§ 723.175 Chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles.

(a) *Purpose and scope.* (1) This section grants an exemption from the premanufacture notice requirements of section 5(a)(1)(A) of the Toxic Substances Control Act (15 U.S.C. 2604(a)(1)(A)) for the manufacture and processing of new chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles.

(2) To manufacture a new chemical substance under the terms of this exemption, a manufacturer of instant photographic or peel-apart film articles must:

(i) Submit an exemption notice when manufacture begins under paragraph (i) of this section.

(ii) Comply with certain requirements to limit exposure to the new chemical substance under paragraphs (e), (f), (g), and (h) of this section.

(iii) Comply with all recordkeeping requirements under paragraph (j) of this section.

(b) *Definitions.* (1) "Act" means the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

(2) An "article" is a manufactured item (i) which is formed to a specific shape or design during manufacture, (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (iii) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article

and that may occur as described in § 710.2 of this chapter except that fluids and particles are not considered articles regardless of shape or design.

(3) The term "byproduct," "EPA," "impurities," "person," and "site" have the same meanings as in § 710.2 of this chapter.

(4) The term "category of chemical substances" has the same meaning as in section 26(c)(2) of the Act (15 U.S.C. 2625).

(5) The terms "chemical substance," "distribute in commerce," "distribution in commerce," "environment," "manufacture," "new chemical substance," and "process" have the same meanings as in section 3 of the Act (15 U.S.C. 2602).

(6) "Director of the Office of Toxic Substances" means the Director of the EPA Office of Toxic Substances or any EPA employee designated by the Office Director to carry out the Office Director's functions under this section.

(7) The term "exemption category" means a category of chemical substances for which a person(s) has applied for or been granted an exemption under section 5(h)(4) of the Act (15 U.S.C. 2604).

(8) The term "instant photographic film article" means a self-developing photographic film article designed so that all the chemical substances contained in the article, including the chemical substances required to process the film, remain sealed during distribution and use.

(9) "Intermediate" means any chemical substance which is consumed in whole or in part in a chemical reaction(s) used for the intentional manufacture of another chemical substance.

(10) "Known to or reasonably ascertainable" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, our could obtain without unreasonable burden or cost.

(11) The term "peel-apart film article" means a self-developing photographic film article consisting of a positive image receiving sheet, a light sensitive negative sheet, and a sealed reagent pod containing a developer reagent and designed so that all the chemical substances required to develop or process the film will not remain sealed within the article during and after the development of the film.

(12) "Photographic article" means any article which will become a component of an instant photographic or peel-apart film article.

(13) "Special production area" means a demarcated area within which all manufacturing, processing, and use of a new chemical substance takes place, except as provided in paragraph (f) of this section, in accordance with the requirements of paragraph (e) of this section.

(14) "Test data" means:

(i) Data from a formal or informal study, test, experiment, recorded observation, monitoring, or measurement.

(ii) Information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments), and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

(15) "Used in or for the manufacturing or processing of an instant photographic or peel-apart film article," when used to describe activities involving a new chemical substance, means the new chemical substance (i) is included in the article, or (ii) is an intermediate to a chemical substance included in the article or is one of a series of intermediates used to manufacture a chemical substance included in the article.

(16) "Wet mixture" means a water or organic solvent-based suspension, solution, dispersion, or emulsion used in the manufacture of an instant photographic or peel-apart film article.

(c) *Exemption category.* The exemption category includes new chemical substances used in or for the manufacture or processing of instant photographic or peel-apart film articles which are manufactured and processed under the terms of this section.

(d) *Applicability.* This exemption applies only to manufacturers of instant photographic or peel-apart film articles who:

(1) Manufacture the new chemical substances used in or for the manufacture or processing of the instant photographic or peel-apart film articles.

(2) Limit manufacture and processing of a new chemical substance to the site(s) listed in the exemption notice for that new chemical substance submitted under paragraph (i) of this section.

(3) Comply with the requirements of paragraphs (e), (f), (g), (h), and (j) of this section.

(4) Do not distribute in commerce or use a peel-apart film article containing a new chemical substance until submission of a premanufacture notice under section 5(a)(1)(A) of the Act (15 U.S.C. 2604) and until the review period for the notice has ended without EPA action to prevent distribution or use.

(e) *Conditions of manufacture and processing in the special production area.* All manufacturing, processing, and use operations involving the new chemical substance must be performed in a special production area under the conditions set forth in this paragraph until the new chemical substance has been incorporated into a wet mixture, photographic article, or instant photographic or peel-apart film article.

(1) *Exposure limits.* In the special production area, the ambient air concentration of the new chemical substance during manufacture, processing, and use cannot exceed an 8-hour time weighted average (TWA) of 10 ppm for gases and vapors and 50 $\mu g/m^3$ for particulates, with an allowable TWA excursion of 50 percent above those concentrations for a duration of 30 minutes or less.

(2) *Respiratory protection*—(i) *Respirator requirement.* Except as specified in paragraph (e)(2)(ii) of this section, each person in the special production area must wear an appropriate respiratory protection device to protect against dusts, fumes, vapors, and other airborne contaminants, as described in 29 CFR 1910.134. Selection of an appropriate respirator must be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2-1969 and the NIOSH Certified Equipment List, U.S. Department of Health and Human Services, NIOSH publication No. 80-144.

(ii) *Waiver of respirator requirement.* Employees are not required to wear respirators if monitoring information collected and analyzed in accordance with paragraph (e)(3) of this section demonstrates that the ambient 8-hour TWA concentration of the new chemical substance in the area is less than 1 ppm for gases and vapors and 5 $\mu g/m^3$ for particulates with an allowable TWA excursion of 50 percent above these concentrations for a duration of 30 minutes or less.

(iii) *Quantitative fit test.* Each respirator must be issued to a specific individual for personal use. A quantitative fit test must be performed for each respirator before its first use by that person in a special production area.

(3) *Monitoring*—(i) *When to monitor.* (A) When suitable sampling and analytic methods exist, periodic monitoring in accordance with this paragraph must be done to ensure compliance with the exposure limits of paragraphs (e) (1) and (2)(ii) of this section.

(B) When suitable sampling and analytic methods do not exist, compliance with the exposure limits of paragraph (e)(1) and the requirements of paragraph (e)(10) of this section must be determined by an evaluation of monitoring data developed for a surrogate chemical substance possessing comparable physical-chemical properties under similar manufacturing and processing conditions.

(ii) *Monitoring methods.* A suitable air sampling method must permit personal or fixed location sampling by conventional collection methods. A suitable analytic method must have adequate sensitivity for the volume of sample available and be specific for the new chemical substance being monitored. If chemical-specific monitoring methods are not available, nonspecific methods may be used if the concentration of the new chemical substance is assumed to be the total concentration of chemical substances monitored.

(iii) *Monitoring frequency.* (A) When suitable air sampling and analytical procedures are available, monitoring must be done in each special production area during the first three 8-hour work shifts involving the manufacture or processing of each new chemical substance. Thereafter, monitoring must be done in each special production area for at least one 8-hour period per month, during a production run in which the new chemical substance is manufactured or processed. Samples must be of such frequency and pattern as to represent with reasonable accuracy the mean level and maximum 30-minute level of employee exposure during an 8-hour work shift. In monitoring for an 8-hour work shift or the equivalent, samples must be collected periodically or continuously for the duration of the 8-hour work shift. Samples must be taken during a period which is likely to represent the maximum employee exposure.

(B) If the manufacturer demonstrates compliance with the exposure limits for 3 consecutive months, further monitoring of the identical process must be performed only every 6 months thereafter, unless there is a significant change in the process, process design, or equipment. If there is such a change, the manufacturer must begin monitoring again according to the schedule in paragraph (e)(3)(iii)(A) of this section.

(iv) *Location of monitoring.* Air samples must be taken so as to ensure that the samples adequately represent the ambient air concentration of a new chemical substance present in each worker's breathing zone.

(4) *Engineering controls and exposure safeguards.* Engineering controls such as, but not limited to, isolation, enclosure, local exhaust ventilation, and dust collection must be used to ensure compliance with the exposure limits prescribed in paragraphs (e)(1) or (e)(2)(ii) of this section.

(5) *Training, hygiene, and work practices*—(i) *Training.* No employee may enter a special production area before the completion of a training program. The training program must be adapted to the individual circumstances of the manufacturer and must address: The known physical-chemical and toxicological properties of the chemical substances handled in the area; procedures for using and maintaining respirators and other personal safeguards; applicable principles of hygiene; special handling procedures designed to limit personal exposure to, and inadvertent release of, chemical substances; and procedures for responding to emergencies or spills.

(ii) *Hygiene.* Appropriate standards of hygiene must be observed by all employees handling a new chemical substance in manufacturing, processing, or transfer operations. The manufacturer must provide appropriate facilities for employee changing and wash-up. Food, beverages, tobacco products, and cosmetics must not be allowed in special production areas.

(iii) *Work practices.* Operating procedures such as those related to chemical weighing and filtering, or the charging, discharging and clean-up of process equipment, must be designed and conducted to ensure compliance with the exposure limits prescribed in paragraph (e)(1) or (e)(2)(ii) of this section. Written procedures and all materials necessary for responding to emergency situations must be immediately accessible to all employees in a special production area. Any spill or unanticipated emission must be controlled by specially trained personnel using the equipment and protective clothing described in paragraph (e)(6) of this section.

(6) *Personal protection devices.* All workers engaged in the manufacture and processing of a new chemical substance in the special production area must wear suitable protective clothing or equipment, such as chemical-resistant coveralls, protective eyewear, and gloves.

(7) *Caution signs.* Each special production area must be clearly posted with signs identifying the area as a special production area where new chemical substances are manufactured and processed under controlled conditions. Each sign must clearly restrict entry into the special production area to qualified personnel who are properly trained and equipped with appropriate personal exposure safeguards.

(8) *Removal for storage or transportation.* A new chemical substance that is not incorporated into a wet mixture, photographic article, or instant photographic or peel-apart film article may be removed from the special production area for purposes of storage be-

tween operational steps or for purposes of transportation to another special production area. Such storage or transportation must be conducted in a manner that limits worker and environmental exposure through the use of engineering controls, training, hygiene, work practices, and personal protective devices appropriate to the chemical substance in question.

(9) *Labeling.* (i) Any new chemical substance removed from a special production area or stored or transported between operational steps must be clearly labeled. The label must show the identity of the new chemical substance or an appropriate identification code, a statement of any known hazards associated with it, a list of special handling instructions, first aid information, spill control directions, and where applicable, the appropriate U.S. Department of Transportation notations.

(ii) No label is required if the new chemical substance has been incorporated into a photographic article, or if it is contained in a sealed reaction vessel or pipeline, or if it has been incorporated into an instant photographic or peel-apart film article.

(10) *Areas immediately adjacent to the special production area.* The ambient air concentration of the new chemical substance in areas immediately adjacent to the special production area must not exceed the exposure limit established in paragraph (e)(2)(ii) of this section for waiver of respirator protection within the special production area. Periodic monitoring in accordance with paragraph (e)(3) of this section must be performed in immediately adjacent areas where it is reasonable to expect a risk of inhalation exposure.

(f) *Conditions of processing outside the special production area.* A wet mixture may be incorporated into a photographic article or an instant photographic or peel-apart film article outside the special production area under the conditions listed in this paragraph:

(1) *Engineering controls and exposure safeguards.* Engineering controls must limit the exposure to a new chemical substance contained in a wet mixture.

(2) *Training, hygiene and work practices*—(i) *Training.* Training of employees involved in the handling of wet mixtures containing a new chemical substance must be adapted to the individual circumstances of the employees' activities and must address: procedures for using personal exposure safeguards, applicable principles of hygiene, handling procedures designed to limit personal exposure, and procedures for responding to emergencies and spills.

(ii) *Hygiene.* Appropriate standards of hygiene that limit exposure must be observed by all employees handling wet mixtures that contain new chemical substances.

(iii) *Work practices.* Work practices and operating procedures must be designed to limit exposure to any new chemical substance contained in wet mixtures. Any spills or unanticipated releases of a wet mixture must be controlled by trained personnel wearing appropriate protective clothing or equipment such as gloves, eye protection, and, where necessary, respirators or chemically imprevious clothing.

(3) *Personal protection devices.* All workers engaged in the processing of a wet mixture containing a new chemical substance must wear suitable protective clothing or equipment such as coveralls, protective eyewear, respirators, and gloves.

(g) *Incorporation of photographic articles into instant photographic and peel-apart film articles.* A photographic article may be incorporated into the instant photographic or peel-apart film article outside the special production area. The manufacturer must take measures to limit worker and environmental exposure to new chemcial substances during these operations using engineering controls, training, hygiene, work practices, and personal protective devices.

(h) *Environmental release and waste treatment*—(1) *Release to land.* Process waste from manufacturing and processing operations in the special production area that contain a new chemical substance are considered to be hazardous waste and must be handled in accordance with the requirements of Parts 262 through 267 and Parts 122 and 124 of this chapter.

(2) *Release to water.* All wastewater or discharge which contain the new chemcial subtance must be appropriately pretreated before release to a Publicly Owned Treatment Works (POTW) or other receiving body of water. In the case of release to a POTW, the pretreatment must prevent structural damage to, obstruction of, or interference with the operation of the POTW. The treatment of direct release to a receiving body of water must be appropriate for the new chemical substance's physical-chemical properties and potential toxicity.

(3) *Release to air.* All process emissions released to the air which contain the new chemical substance must be vented through control devices appropriate for the new chemical substance's physical-chemical properties and potential toxicity.

(i) *Exemption notice.* An exemption notices must be submitted to EPA when manufacture of the new chemical substance begins.

(1) *Contents of exemption notice.* The exemption notice must include the following information:

(i) *Manufacturer and sites.* The notice must identify the manufacturer and the sites and locations where the new chemical substance and the instant photographic or peel-apart film articles will be manufactured and processed.

(ii) *Chemical identification.* The notice must identify the new chemical substance as follows:

(A) *Class 1 substances.* For chemical substances whose composition can be represented by a definite structural disagram (class 1 substances), the notice must provide the chemical name (preferably CAS or IUPAC nomenclature), the molecular formula, CAS Registry Number (if available), known synonyms (including trade names), and a structural diagram.

(B) *Class 2 substances.* For chemical substances that cannot be fully represented by a structural diagram, (class 2 substances), the notice must provide the chemical name, the molecular formula, the CAS Registry Number (if available), and known synonyms (including trade names). The notice must identify the immediate precursors and reactants by name and CAS Registry Number (if available). The notice must include a partial or incomplete structural diagram, if available.

(C) *Polymers.* For a polymer, the notice must indentify monomers and other reactants used in the manufacture of the polymer by chemical name and CAS Registry Number. The notice must indicate the amount of each monoer used (by weight percent of total monomer); the maximum residual of each monomer present in the polymer; and a partial or incomplete structural diagram, if available. The notice must indicate the number average molecular weight of the polymer and characterize the anticipated low molecular weight species. The notice must include this information for each typical average molecular weight composition of the polymer to be manufactured.

(iii) *Impurities.* The notice must identify the impurities that can be reasonably anticipated to be present in the new chemcial substance when manufactured under the exemption by name and CAS Registry Number, by class of substances, or by process or source. The notice also must estimate the maximum percent (by weight) of each impurity in the new chemical substance and the percent of unknown impurities present.

(iv) *Physical-chemical properties.* The notice must desribe the physical-chemical properties of the new chemical substance. Where specific physical-chemcial data are not available, reasonable estimates and the techniques used to develop these estimates must be provided.

(v) *Byproducts.* The notice must identify the name, CAS Registry number (if available), and the volume of each byproduct that would be manufactured during manufacture of the new chemical substance.

(vi) *Production volume.* The notice must include an estimate of the anticipated maximum annual production volume.

(vii) *Test data.* The notice must include all information and test data on the new chemical substance's health and environmental effects that are known to or reasonably ascertainable by the manufacturer.

(viii) *Identity of the article.* The notice must identify and describe the instant photographic film article(s) or peel-apart film article(s) that will contain the new chemical substance.

(ix) *Release to water.* The notice must include a description of the methods used to control and treat wastewater or discharge released to a POTW or other receiving body of water. The notice must also identify the POTW or receiving body of water.

(x) *Certification.* The manufacturer must certify in the notice that it is familiar with the terms of the exemption and that the manufacture, processing, distribution, use, and disposal of the new chemical substance will comply with those terms.

(2) *Duplication of information in premanufacture notice.* If a manufacturer who submits an exemption notice under this paragraph has already submitted, or simultaneously submits, a premanufacture notice under section 5(a)(1)(A) of the Act for the new chemical substance, it may, in lieu of submitting the information required by this paragraph, reference the required information to the extent it is included in the premanufacture notice. At a minimum, the exemption notice must identify the manufacturer and the new chemical substance, and contain the certification required by paragraph (i)(1)(x) of this section.

(3) *Address.* The exemption notice must be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460.

(j) *Recordkeeping.* (1) Manufacturers of a new chemical substance under this exemption must keep the following records for 30 years from the final date of manufacture.

(i) *Production records.* Each manufacturer must maintain records of the annual production volume of each new chemical substance manufactured under the terms of the exemption. This record must indicate when manufacture of the new chemical substance began.

(ii) *Exposure monitoring records.* Manufacturers must maintain an accurate record of all monitoring required by this section. Monitoring records may be adapted to the individual circumstances of the manufacturer but, at a minimum, must contain the following information: the chemical identity of the new chemical substance, date of the monitoring, the actual monitoring data for each monitoring location and sampling, and a reference to or description of the collection and analytic techniques. If the manufacturer does not monitor the manufacturer must maintain a record of the reasons for not monitoring and the methods used to determine compliance with the exposure limits of paragraph (e)(1) of this section.

(iii) *Training and exposure records.* For each employee engaged in the manufacture or processing of a new chemical substance, the company must develop and maintain a record of the worker's participation in required training. This record must also demonstrate the regular use of personal exposure safeguards, including the results of any personal exposure monitoring, the results of the quantitative fit test for the worker's personal respirator, and any additional information related to the worker's occupational exposure.

(iv) *Treatment records.* Manufacturers who release treated wastewater or discharge containing a new chemical substance to a POTW or other receiving body of water must maintain records of the method of treatment.

(2) The manufacturer must make the records listed in paragraph (j)(1) of this section available to EPA upon written request by the Director of the Office of Toxic Substances. The manufacturer must provide these records within 15 working days of receipt of this request.

(k) *Confidentiality.* If the manufacturer submits information under paragraph (i) or (j) of this section which it claims to be confidential business information, the manufacturer must clearly identify the information at the time of submission to the Agency by bracketing, circling, or underlining it and stamping it with "CONFIDENTIAL" or some other appropriate designation. Any information so identified will be treated in accordance with the procedures in Part 2 of this chapter. Any information not claimed confidential at the time of submission will be made available to the public without further notice to the submitter.

(l) *Amendment and repeal.* (1) EPA may amend or repeal any term of this exemption if it determines that the manufacturer, processing, distribution, use, and disposal of new chemical substances under the terms of the exemption may present an unreasonable risk of injury to health or the environment. EPA also may amend this exemption to enlarge the exemption category or to reduce the restrictions or conditions of the exemption.

(2) As required by section 5(h)(4) of the Act, EPA will amend or repeal the substantive terms of an exemption granted under this part only by the formal rulemaking procedures described in section 6(c)(2) and (3) of the Act (15 U.S.C. 2605(c)).

(m) *Prohibition of use of the exemption.* The Director of the Office of Toxic Substances may prohibit the manufacture, processing, distribution, use, or disposal of any new chemical substance under the terms of this exemption if he or she determines that the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance may present an unreasonable risk of injury to health or the environment.

(n) *Enforcement.* (1) A failure to comply with any provision of this part is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Submitting materially misleading or false information in connection with the requirements of any provision of this part is a violation of this regulation and therefore a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation.

(4) EPA may seek to enjoin the manufacture of a new chemical substance in violation of this exemption or act to seize any chemical substances manufactured in violation of the exemption under the authority of section 17 of the Act (15 U.S.C. 2616).

(Sec. 5, Toxic Substances Control Act, 15 U.S.C. 2604)

[47 FR 24317, June 4, 1982]

EFFECTIVE DATE NOTE: At 47 FR 24317, June 4, 1982, Part 723 was added, effective on July 6, 1982.

PART 750—PROCEDURES FOR RULEMAKING UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

Subpart A—Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act

Sec.
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Subpart B—Interim Procedural Rules for Manufacturing Exemptions

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Subpart C—Interim Procedural Rules for Processing and Distribution in Commerce Exemptions

750.30 Applicability.
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750.39 Conduct of informal hearing.
750.40 Cross-examination.
750.41 Final rule.

AUTHORITY: Sec. 6, Toxic Substances Control Act, 15 U.S.C. 2605.

Subpart A—Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act

SOURCE: 42 FR 61259, Dec. 2, 1977, unless otherwise noted.

§ 750.1 Applicability.

This part applies to all rulemakings under authority of section 6 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605.

§ 750.2 Notice of proposed rulemaking.

(a) Each rulemaking subject to this part shall begin with the publication of a Notice of Proposed Rulemaking in the FEDERAL REGISTER.

(b) Each such notice shall contain:

(1) A draft finding that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use or disposal of the chemical substance(s) or mixture(s) at issue, or any combination of such activities, presents or will present an unreasonable risk of injury to health or the environmentment.

(2) A Notice of Proposed Rulemaking stating with particularity the reasons for the proposed rule together with a statement why the proposed rule protects adequately against the risk(s) involved using the least burdensome requirements authorized by TSCA.

(3) Either the draft text of the proposed rule (which may include alternative approaches among which a final choice has not yet been made) or a description of the approaches and provisions being considered for inclusion in the rule, or some combination of the above.

(4) Except for rules published under authority of section 6(e), a draft statement with respect to:

(i) The effects of the substance(s) or mixture(s) at issue on health and the magnitude of the exposure of human beings to such substance(s) or mixture(s);

(ii) The effects of the substace(s) or mixture(s) at issue on the environment and the magnitude of the exposure of the environment to such substance(s) or mixture(s).

(iii) The benefits of the substance(s) or mixture(s) at issue for various uses and the availability of substitutes for such uses; and

(iv) The reasonably ascertainable economic consequences of the rule, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

(v) Major impacts of alternatives to the proposed rule shall also be analyzed.

(5) In cases where the administrator, in his or her discretion, determines that a risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by actions taken under a Federal law (or laws) other than TSCA administered in whole or in part by the Administrator, a finding that it is in the public interest to proceed against such risk under TSCA. Any such finding shall be accompanied by a brief statement discussing:

(i) All relevant aspects of the risk;

(ii) A comparison of the estimated costs of complying with actions taken under TSCA and under such other law (or laws); and

(iii) The relative efficiency of actions under TSCA and under such other law (or laws) to protect against risk of injury.

Two or more or all of the statements required above may be combined in the same narrative for efficiency of exposition as long as each of the required points is discussed. Any statement required by this paragraph may reference other documents which are not published in the FEDERAL REGISTER. All such referenced documents shall be included in the rulemaking record. Either the statements required by this paragraph or the documents they reference shall contain a discussion of the factual, analytical, policy and legal considerations behind the agency decision to issue the proposed rule in the form chosen. A brief summary of these considerations shall be included in the preamble in any case. All factual materials and each analytical methodology seriously considered shall be fully disclosed. Significant areas of uncertainty known to the

Agency under each heading shall be identified, and the manner in which the Agency intends to deal with them shall be specified.

(c) In addition to the material required under paragraph (b) of this section, each notice of proposed rulemaking shall contain:

(1) A statement of the time and place at which the informal hearing required by section 6(c)(2)(C) of TSCA shall begin, or, to the extent these are not specified, a statement that they will be specified later in a separate FEDERAL REGISTER notice *Provided*, That FEDERAL REGISTER notice of the date and city at which any informal hearing shall begin shall be given at least 30 days in advance;

(2) A statement identifying the place at which the official record of the rulemaking is located, the hours during which it will be open for public inspection, the documents contained in it as of the date the notice of proposed rulemaking was issued, and a statement of the approximate times at which additional materials such as public comments, hearing transcripts, and agency studies in progress will be added to the record. If any material other than public comments or material generated by a hearing is added to the record after publication of the notice required by this section, and notice of its future addition was not given at the time of that initial publication, a separate FEDERAL REGISTER notice announcing its addition to the record and inviting comment shall be published;

(3) The due date for public comments, which shall be at least two weeks prior to the informal hearing for main comments and no more than two weeks after the informal hearing for reply comments;

(4) The name, address and office telephone number of the Record and Hearing Clerk for the rulemaking in question; and

(5) A nonbinding target date for issuing the final rule.

§ 750.3 Record.

(a) No later than the date of proposal of a rule subject to this part, a rulemaking record for that rule shall be establshed. It shall consist of a separate identified filing space containing:

(1) All documents required by § 750.2(b);

(2) All documents cited in the documents required by § 750.2(b);

(3) all public comments timely received;

(4) All public hearing transcripts;

(5) All material received during an informal hearing and accepted for the record of that hearing; and

(6) Any other information which the Administrator considers to be relevant to such rule and which the Administrator identified, on or before the date of the promulgation of the rule, in a notice published in the FEDERAL REGISTER.

All material in the record shall be appropriately indexed. Each record shall be available for public inspection during normal Agency business hours. Appropriate arrangements allowing members of the public to copy record materials that do not risk the permanent loss of such materials shall be made. All material required to be included in the record shall be added to the record as soon as feasible after its receipt by the Agency.

(b) The Record and Hearing Clerk for each rulemaking shall be responsible for Agency compliance with the requirements of paragraph (a) of this section.

§ 750.4 Public comments.

(a) Main comments shall be postmarked or received no later than the time specified in the Notice of Proposed Rulemaking and shall contain all comments on and criticisms of that Notice by the commenting person, based on information which is or reasonably could have been available to that person at the time.

(b) Reply comments shall be postmarked or received no later than two weeks after the close of all informal hearings on the proposed rule and shall be restricted to comments on:

(1) Other comments;

(2) Material in the hearing record; and

(3) Material which was not and could not reasonably have been available to the commenting party a suffi-

cient time before main comments were due.

(c) Extensions of the time for filing comments may be granted in writing by the Record and Hearing Clerk. Application for an extension shall be made in writing. Comments submitted after the comment period and all extensions of it have expired need not be added to the rulemaking record and need not be considered in decisions concerning the rule. Unless the Notice of Proposed Rulemaking states otherwise, four copies of all comments shall be submitted.

§ 750.5 Subpoenas.

(a) Where necessary, subpoenas requiring the production of documentary material, the attendance of persons at the hearing, or responses to written questions may be issued. Subpoenas may be issued either upon request as provided in paragraph (b) of this section or by EPA on its own motion.

(b) All subpoena requests shall be in writing. Hearing participants may request the issuance of subpoenas as follows:

(1) Subpoenas for the attendance of persons, and for the production of documents or responses to questions at the legilative hearing may be requested at any time up to the deadline for filing main comments.

(2) Subpoenas for production of documents or answers to questions after the legislative hearing may be requested at any time between the beginning of the legislative hearing and the deadline for submitting reply comments.

(c) EPA will rule on all subpoena requests filed under paragraph (b)(1) of this section no later than the beginning of the legislative hearing. Such requests may be granted, denied, or deferred. EPA will rule on all subpoena requests filed under paragraph (b)(2) of this section and all deferred subpoena requests filed under paragraph (b)(1) of this section no later than the promulgation of the final rule. Such requests shall be either granted or denied.

§ 750.6 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA shall file a written request to so participate with the Record and Hearing Clerk which shall be postmarked or received no later than three weeks prior to the scheduled start of such hearing. The request shall include:

(1) A brief statement of the interest of the person or organization in the proceeding;

(2) A brief outline of the points to be addressed;

(3) An estimate of the time required; and

(4) If the request comes from an organization, a nonbinding list of the persons to take part in the presentation. Organizations are requested to bring with them, to the extent possible, employees with individual expertise in and responsibility for each of the areas to be addressed. No organization not filing main comments in the rulemaking will be allowed to participate at the hearing, unless a waiver of this requirement is granted in writing by the Record and Hearing Clerk or the organization is appearing at the request of EPA or under subpoena.

(b) No later than one week prior to the start of the hearing, the Record and Hearing Clerk shall make a hearing schedule publicly available and mail or deliver it to each of the persons who requested to appear at the hearing. This schedule shall be subject to change during the course of the hearing at the discretion of those presiding over it.

(c) Opening statements should be brief, and restricted either to points that could not have been made in main comments, or to emphasizing points which are made in main comments, but which the participant believes can be more forcefully urged in the hearing context.

§ 750.7 Conduct of legislative hearing.

(a) A panel of EPA employees shall preside at each hearing conducted under section 6(c)(2)(C) of TSCA. In appropriate cases other Executive Branch employees may also sit with and assist the panel. The membership of the panel may change as different topics arise during the hearing. In general, the panel membership will consist of agency employees with special responsibility for the final rule or special expertise in the topics under discussion. One member of the panel shall be named to chair the proceedings and shall attend throughout the hearing, unless unavoidably prevented by sickness or similar personal circumstances.

(b) The panel may question any individual or group participating in the hearing on any subject relating to the rulemaking. Cross-examination by others will normally not be permitted at this stage. It may be granted in compelling circumstances at the sole discretion of the hearing panel. However, persons in the hearing audience may submit questions in writing for the hearing panel to ask the participants, and the hearing panel may, at their discretion, ask these questions.

(c) Participants in the hearing may submit additional material for the hearing record and shall submit such additional material as the hearing panel may request. All such submissions shall become part of the record of the hearing. A verbatim transcript of the hearing shall be made.

§ 750.8 Cross-examination.

(a) After the close of the legislative hearing conducted under § 750.7, any participant in that hearing may submit a written request for cross-examination. The request shall be received by EPA within one week after a full transcript of the legislative hearing becomes available and shall specify:

(1) The disputed issue(s) of material fact as to which cross-examination is requested. This shall include an explanation of why the questions at issue are "factual", rather than of an analytical or policy nature, the extent to which they are in "dispute" in the light of the record made thus far, and the extent to which and why they can reasonably be considered "material" to the decision on the final rule; and

(2) The person(s) the participant desires to cross-examine, and an estimate of the time necessary. This shall include a statement by the cross-examination requested can be expected to result in "full and true disclosure" resolving the issue of material fact involved.

(b) Within one week after receipt of all requests for cross-examination under paragraph (a) of this section the hearing panel shall rule on them. The ruling shall be served by the Record and Hearing Clerk on all participants who have requested cross-examination and shall be inserted in the record. Written notice of the ruling shall be given to all persons requesting cross-examination and all persons to be cross-examined. The ruling shall specify:

(1) The issues as to which cross-examination is granted,

(2) The persons to be cross-examined on each issue,

(3) The persons to be allowed to conduct cross-examination, and

(4) Time limits for the examination of each witness by each cross-examiner.

In issuing this ruling, the panel may determine that one or more participants who have requested cross-examination have the same or similar interests and should be required to choose a single representative for purposes of cross-examination. In such a case the order shall simply assign time for cross-examination by that single representative without identifying the representative further. Subpoenas for witnesses may be issued where necessary.

(c) Within one week after the insertion into the record of the ruling under paragraph (b) of this section, the hearing at which the cross-examination will be conducted shall commence. One or more members of the original panel shall preside for the Agency. The panel shall have authority to conduct cross-examination on behalf of any participant, although as a general rule this right will not be exercised. The panel shall also have authority to modify the governing ruling in any respect and to make new rulings on group representation under section 6(c)(3)(C) of TSCA. A verbatim transcript of the hearing shall be made.

(d) (1) No later than the time set for requesting cross-examination, a hearing participant may request that other alternative methods of clarifying the record (such as informal conferences or the submittal of additional information) be used. Such requests may be submitted either in lieu of cross-examination requests, or in conjunction with them.

(2) The panel in passing on a cross-examination request may as a precondition to ruling on its merits require that alternative means of clarifying the record be used whether or not that has been requested under paragraph (d)(1) of this section. In such a case the results of the use of such alternative means shall be made available to the person requesting cross-examination of a one-week comment period, and the panel shall make a final ruling on cross-examination within one week thereafter.

(e) Waivers or extensions of any deadline in this section applicable to persons other than EPA may be granted on the record of the hearing by the person chairing it or in writing by the Record and Hearing Clerk.

§ 750.9 Final rule.

(a) As soon as feasible after the deadline for submittal of reply comments, the Agency shall issue a final rule. Final versions of the statements required by paragraph (b) of § 750.2 shall be published in the FEDERAL REGISTER together with the final rule. The Agency shall also publish at that time:

(1) A list of all material added to the record (other than public comments and material from the hearng record) which has not previously been listed in a FEDERAL REGISTER document, and

(2) The effective date of the rule.

APPENDIX A

To assist in reading the regulations set forth above, this Appendix sets forth the principal stages through which rules promulgated under section 6 of TSCA will pass.

The second column gives the relationship that one date bears to another whenever that relationship is specified in the regulations, and cites the governing provision. The third column contains estimates of the time that a typical rulemaking is likely to require to reach and complete each stage of these proceedings. In drawing up this third column, we have assumed that 60 days will be allowed for the submission of main comments; that the legislative phase of the informal hearing will take two weeks, and that cross-examination will take four days. Since these are only estimates, in any given rulemaking shorter or longer times may actually be required for each of these stages.

Stage	Timing in relation to other stages	Estimated total time elapsed (days)
Proposed regulation	Sec. 750.2	
Requests to participate in informal hearing due.	3 weeks prior to beginning of hearing (§ 750.2(a)).	53
Main comments due	2 weeks prior to beginning of hearing (§ 750.2(c)(3)).	60
Begin informal hearing.		74
End legislative hearing.		88
Requests for cross-examination due.	1 week after end of legislative hearing (§ 750.8(a)).	95
Ruling on cross-examination requests.	1 week after requests are due (§ 750.8(b)).	102
Cross-examination begins.	1 week afer ruling on cross-examination requests (§ 750.8(c)).	109
Cross-examination ends; informal hearing ends.		113
Reply comments due	2 weeks after end of informal hearing (§ 750.4(b)).	127

Subpart B—Interim Procedural Rules for Manufacturing Exemptions

SOURCE: 43 FR 50905, Nov. 1, 1978, unless otherwise noted.

§ 750.10 Applicability.

Sections 750.10-750.21 apply to all rulemakings under authority of section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e)(3)(B) with respect to petitions filed pursuant to § 750.11(a) of this part.

§ 750.11 Filing of petitions for exemption.

(a) *Who may file.* Any person seeking an exemption from the PCB manufacturing ban imposed by section 6(e)(3)(A) of TSCA may file a petition for exemption. Petitions must be submitted on an individual basis for each manufacturer or individual affected by the 1979 manufacturing ban.

(b) *Petition filing date.* All petitions for exemptions from the 1979 manufacturing ban under section 6(e)(3)(A) must be received by the hearing clerk by December 1, 1978, which is 30 days after publication of this notice.

(c) *Where to file.* All petitions shall be submitted to the following location: Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, attention: Ms. Joni T. Repasch.

(d) *Content of petition.* Each petition shall contain the following:

(1) Name, address and telephone number of petitioner.

(2) Description of PCB ban exemption requested, including items to be manufactured and nature of manufacturing process—such as smelting.

(3) Location(s) of manufacturing sites requiring exemption.

(4) Length of time requested for exemption (maximum length of exemption is 1 year).

(5) Amount of PCB chemical substance or PCB mixture (by pounds and/or volume) to be manufactured or used during requested exemption period and the manner of release of PCB's into the environment associated with such manufacture or use.

(6) The basis for the petitioner's contention that under section 6(e)(3)(B)(i) of TSCA "an unreasonable risk of injury to health or environment would not result" from the granting of his petition for exemption.

(7) The basis for the petitioner's contention that he meets the criterion of section 6(e)(3)(B)(ii) of TSCA concerning substitutes for PCB's.

(8) Quantification of the reasonably ascertainable economic consequences of denial of the petition for exemption from the 1979 manufacturing ban and an explanation of the manner of computation.

The Agency reserves the right to request further information as to each petition prior to or after publication of the notice of proposed rulemaking required by § 750.13 of these rules.

§ 750.12 Consolidation of rulemakings.

All petitions received pursuant to § 750.11(a) will be consolidated into one rulemaking with one informal hearing held on all petitions.

§ 750.13 Notice of proposed rulemaking.

Rulemaking for PCB exemptions filed pursuant to § 750.11(a) shall begin with the publication of a notice of proposed rulemaking in the FEDERAL REGISTER. The notice shall state in summary form the required information described in § 750.11(d). Due to time constraints, the notice need not indicate what action EPA proposes to take on the exemption petitions. The notice shall also be subject to § 750.2(c) with the exceptions (1) that the clause "in addition to the material required under paragraph (b)" is eliminated; and (2) that § 750.2(c)(3) is changed to read:

> The due date for public comments, which shall be (1) thirty days after publication of the notice of proposed rulemaking for main comments and (2) one week after the close of the informal hearing for reply comments.

§ 750.14 Record.

Section 750.3 shall be applicable with the exception that the words "§ 750.11(d)" are substituted for "§ 750.2(b)" in § 750.3(a) (1) and (2).

§ 750.15 Public comments.

Section 750.4 shall be applicable with the exception that the time period in § 750.4(b) is shortened to 1 week.

§ 750.16 Confidentiality.

The Agency encourages the submission of nonconfidential information by petitioners and commenters. The Agency does not wish to have unnecessary restrictions on access to the rulemaking record. However, if a petitioner or commenter believes that he can only state his position through the use of information claimed to be confidential, he may submit it. Such information must be separately submitted for the rulemaking record and marked "confidential" by the submitter. For the information claimed to be confidential, the Agency will list only the date and the name and address of the petitioner or commenter in the public file, noting that the petitioner or commenter has requested confidential treatment. The information claimed to be confidential will be placed in a confidential file. A petitioner must also file a nonconfidential petition with a nonconfidential summary of the confidential information to be placed in the public file. Similarly, a commenter must supply a nonconfidential summary of the information claimed to be confidential to be placed in the public file. Any information not marked as confidential will be placed in the public file. Information marked confidential will be treated in accordance with the procedures in Part 2, Subpart B of this title.

§ 750.17 Subpoenas.

Section 750.5 shall be applicable.

§ 750.18 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA shall file a written request to so participate with the record and hearing clerk which shall be received no later than 7 days prior to the scheduled start of the hearing. The hearing shall begin 7 days after the close of the 30-day comment period or as soon thereafter as practicable.

(b) With the exception of the first sentence in § 750.6(a), § 750.6 shall be applicable with the further exception that the time period in § 750.6(b) is shortened to no later than 3 days prior to the start of the hearing.

§ 750.19 Conduct of informal hearing.

Section 750.7 shall be applicable with the addition of the following sentence at the end of § 750.7(c):

> Participants shall be allowed to designate testimony from prior EPA informal rulemaking hearings concerning PCB's under TSCA. The hearing panel may reject repetative testimony previously presented at such hearings.

§ 750.20 Cross-examination.

Section 750.8 shall be applicable.

§ 750.21 Final rule.

(a) As soon as feasible after the deadline for submittal of reply comments, the Agency shall issue a final rule. The Agency shall also publish at that time:

(1) A list of all material added to the record (other than public comments and material from the hearing record) which has not previously been listed in a Federal Register document, and

(2) The effective date of the rule.

(b) The Administrator hereby delegates final Agency authority to grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to § 750.11 of these rules to the Assisitant Administrator for Toxic Substances. The Assistant Administrator shall act on such petitions subsequent to opportunity for an informal hearing pursuant to these rules.

(c) In determining whether to grant an exemption to the PCB ban, the Agency shall apply the two standards enunciated in section 6(e)(3)(B) of TSCA.

Subpart C—Interim Procedural Rules for Processing and Distribution in Commerce Exemptions

Source: 44 FR 31560, Mar. 31, 1979, unless otherwise noted.

§ 750.30 Applicability.

Sections 750.30-750.41 apply to all rulemakings under authority of section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e)(3)(B) with respect to petitions for PCB processing and distribution in commerce exemptions filed pursuant to § 750.31(a) of this part.

§ 750.31 Filing of petitions for exemption.

(a) *Who may file.* Any person seeking an exemption from the PCB processing and distribution in commerce prohibitions imposed by section 6(e)(3)(A)(ii) of TSCA may file a petition for exemption. Petitions must be submitted on an individual basis for each processor, distributor, seller or individual affected by the 1979 processing and distribution in commerce prohibitions, except as described in paragraphs (a)(1) through (9) below.

(1) *Processing and distribution in commerce of PCB-contaminated transformer dielectric fluid.* Persons who process or distribute in commerce dielectric fluid containing 50 ppm or greater PCB (but less than 500 ppm

PCB) for use in PCB-Contaminated Transformers may submit a single consolidated petition on behalf of any number of petitioners. The name and address of each petitioner must be stated in the petition.

(2) *Contaminated substances and mixtures—processing.* Persons who process the same chemical substance or the same mixture containing 50 ppm or greater PCB as an impurity or contaminant may submit a consolidated petition if the chemical substance or mixture is processed for the same use by each person represented by the petition. For example, persons who process a PCB-contaminated pigment into printing inks may combine their petitions into one petition. The name and address of each petitioner must be stated in the petition.

(3) *Contaminated substances and mixtures—distribution in commerce.* Persons who distribute in commerce the same chemical substance or the same mixture containing 50 ppm or greater PCB as an impurity or contaminant may submit a consolidated petition if the chemical substance or mixture is distributed in commerce for a common use. Such a petition is not required to name each person who distributes in commerce the chemical substance or mixture.

(4) *PCB capacitor distribution for purposes of repair.* Persons who distribute in commerce PCB capacitors for servicing (repair) of PCB Equipment may submit a single consolidated petition on behalf of any number of petitioners engaged in such distribution in commerce for purposes of repair. The name of each petitioner need not be stated in the petition.

(5) *Small quantities for research and development.* Persons who process or distribute in commerce small quantities of PCBs for research and development may submit a single consolidated petition. The name and address of each petitioner must be stated in the petition.

(6) *Microscopy.* Persons who process or distribute in commerce PCBs for use as a mounting medium in microscopy may submit a single consolidated petition on behalf of any number of petitioners. The name and address of each petitioner must be stated in the petition.

(7) *Processing of PCB Articles into PCB Equipment.* A person who processes (incorporates) PCB Articles (such as small PCB Capacitors) into PCB Equipment may submit a petition on behalf of himself and all persons who further process or distribute in commerce PCB Equipment built by the petitioner. For example, a builder of motors who places small PCB Capacitors in the motors may submit a petition on behalf of all persons who process or incorporate motors built by the petitioner into other pieces of PCB Equipment and all those who sell the equipment. Such a petition is not required to identify the persons who distribute in commerce or further process the PCB Equipment. A separate petition must be filed, however, by each processor of PCB Articles into PCB Equipment.

(8) *Processing of PCB Equipment into other PCB Equipment.* A person who processes (incorporates) PCB Equipment into other PCB Equipment may submit a petition on behalf of himself and all persons who further process or distribute in commerce PCB Equipment built by the petitioner. Such a petition is not required to identify the persons who distribute in commerce or further process the PCB Equipment. If a petition has been filed under paragraph (a)(7) of this section by the builder of the original PCB Equipment, no other petition is required.

(9) *Distribution of PCB Equipment.* Distributors in commerce of PCB Equipment may submit a consolidated petition on behalf of persons who distribute in commerce PCB Equipment of one type (such as air conditioners). The petition is not required to name the persons who distribute in commerce the affected PCB Equipment.

(b) *Petition filing date.* All petitions for exemptions from the 1979 processing and distribution in commerce prohibitions under section 6(e)(3)(A)(ii) must be received by the Hearing Clerk by July 2, 1979.

(c) *Where to file.* All petitions must be submitted to the following location: Document Control Officer (TS-793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attn.: Docket Number OTS/066002 (PCB/PDE).

(d) *Content of petition.* Each petition must contain the following:

(1) Name, address and telephone number of petitioner. See also paragraphs (a)(1) through (9) of this section for additional identification requirements applicable to certain consolidated petitions.

(2) Description of PCB processing or distribution in commerce exemption requested, including a description of the chemical substances, mixtures or items to be processed or distributed in commerce and, if processing is involved, the nature of the processing.

(3) For processing petitions, location(s) of sites requiring exemption.

(4) Length of time requested for exemption (maximum length of exemption is one year).

(5) Estimated amount of PCBs (by pound and/or volume) to be processed, distributed in commerce, or used during requested exemption period and the manner of release of PCBs into the environment associated with such processing, distribution in commerce, or use. Where the PCB concentration is less than 500 ppm, both the total liquid volume and the total PCB volume must be provided.

(6) The basis for the petitioner's contention that under section 6(e)(3)(B)(i) of TSCA "an unreasonable risk of injury to health or environment would not result" from the granting of the petition for exemption.

(7) The basis for the petitioner's contention that under section 6(e)(3)(B)(ii) "good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for" the PCB.

(8) Quantification of the reasonably ascertainable economic consequences of denying the petition for exemption and an explanation of the manner of computation.

(9) In addition to the information in paragraphs (d)(1) through (d)(8) of this section, certain petitions must contain additional information as follows:

(i) Persons who process or distribute in commerce dielectric fluids containing 50 ppm or greater PCB for use in PCB Transformers, railroad transformers, or PCB electromagnets must also state the expected number of PCB Transformers, railroad transformers, or PCB electromagnets to be serviced under the exemption. In addition, a person must identify all the facilities which he owns or operates where he services PCB transformers, railroad transformers, or PCB electromagnets.

(ii) Persons filing petitions under paragraph (a)(1) of this section (Processing and Distribution in Commerce of PCB-Contaminated Transformer Dielectric Fluid) must also provide the expected number of PCB-Contaminated Transformers to be serviced under the requested exemption and the expected method of disposal of waste dielectric fluid. In addition, a person must identify all the facilities which he owns or operates where he services PCB-Contaminated Transformers. This information, as well as the information required by paragraphs (d)(1), (d)(3) and (d)(5) of this section, must be provided for each person represented by the petition. All other information may be provided on a group basis.

(iii) Persons filing petitions under paragraphs (a)(2) (Contaminated Substances and Mixtures-Processing) and (a)(3) (Contaminated Substances and Mixtures-Distribution in Commerce) must also provide a justification for the class grouping selected and a description of the uses and the human and environmental exposure associated with each use of the PCB-contaminated chemical substance or mixture for which an exemption is sought. Information may be provided on a group basis, except that the information required by paragraphs (d)(1), (d)(3) and (d)(5) of this section, must be provided for each person represented by a petition under paragraph (a)(2).

(iv) Persons filing petitions under paragraph (a)(4) of this section (PCB Capacitor Distribution for Purposes of Repair) must also provide an estimate of the expected total number of PCB Capacitors to be distributed in commerce under the requested exemption. All information may be provided on a group basis.

(v) Persons filing petitions under paragraph (a)(7) and (a)(8) of this section (Processing of PCB Articles into PCB Equipment and Processing of PCB Equipment into Other PCB Equipment) must provide a description of each type of PCB Equipment (including the amount of PCBs by poundage and/or volume in the PCB Equipment) to be processed and/or distributed in commerce under the exemption, the number of each type of equipment expected to be processed and/or distributed in commerce, and the approximate number of distributors or further processors covered by the petition. All information may be provided on a group basis. However, in the case of a petition under paragraph (a)(7) of this section, the processor of PCB Articles into PCB Equipment must be identified in the petition. In the case of a petition under paragraph (a)(8), the processor of PCB Equipment who files the petition must be identified.

(vi) Persons filing petitions under paragraph (a)(9) of this section (Distribution of PCB Equipment) must provide a description of each type of PCB Equipment (including the amount of PCBs by poundage and/or volume in the PCB Equipment) to be distributed in commerce under the exemption, the number of each type of equipment to be distributed in commerce, and the approximate number of distributors covered by the petition. All information may be provided on a group basis.

(vii) Persons filing petitions under paragraphs (a)(5) and (a)(6) of this section must provide the information required by paragraphs (d)(1) through (d)(8) of this section for each petitioner named in the petition.

(e) EPA reserves the right to request further information as to each petition where necessary to determine whether the petition meets the statutory tests of section 6(e)(3)(B) of TSCA prior to or after publication of the notice of proposed rulemaking required by § 750.33 of these rules.

§ 750.32 Consolidation of rulemaking.

All petitions received pursuant to § 750.31(a) will be consolidated into one rulemaking with one informal hearing held on all petitions.

§ 750.33 Notice of proposed rulemaking.

Rulemaking for PCB processing and distribution in commerce exemptions filed pursuant to § 750.31(a) will begin with the publication of a Notice of Proposed Rulemaking in the FEDERAL REGISTER. Each notice will contain:

(a) A summary of the information required in §750.31(d);

(b) A statement of the time and place at which the informal hearing required by section 6(c)(2)(C) of TSCA shall begin, or, to the extent these are not specified, a statement that they will be specified later in a separate FEDERAL REGISTER notice provided that FEDERAL REGISTER notice of the date and city at which any informal hearing shall begin will be given at least 30 days in advance;

(c) A statement identifying the place at which the official record of the rulemaking is located, the hours during which it will be open for public inspection, the documents contained in it as of the date the Notice of Proposed Rulemaking was issued, and a statement of the approximate times at which additional materials such as public comments, hearing transcripts, and Agency studies in progress will be added to the record. If any material other than public comments or material generated by a hearing is added to the record after publication of the notice required by this action, and notice of its future addition was not given at the time of that initial publication, a separate FEDERAL REGISTER notice announcing its addition to the record and inviting comment will be published;

(d) The due date for public comments, which will be (1) 30 days after publication of the notice of proposed rulemaking for main comments and (2) one week after the informal hearing for reply comments;

(e) The name, address, and office telephone number of the Record Clerk and the Hearing Clerk for the rulemaking in question; and

(f) A nonbinding target date for issuing the final rule.

§ 750.34 Record.

(a) No later than the date of proposal of a rule subject to this subpart, a rulemaking record for that rule will be established. It will consist of a separate identified filing space containing:

(1) All documents required by § 750.31(d);

(2) All public comments timely received;

(3) All public hearing transcripts;

(4) All material received during an informal hearing and accepted for the record of that hearing; and

(5) Any other information that the Assistant Administrator for Toxic Substances considers to be relevant to such rule and that the Assistant Administrator identified, on or before the date of the promulgation of the rule, in a notice published in the FEDERAL REGISTER.

(b) All material in the record will be appropriately indexed. Each record will be available for public inspection during normal EPA business hours. Appropriate arrangements allowing members of the public to copy record materials that do not risk the permanent loss of such materials will be made. All material required to be included in the record will be added to the record as soon as feasible after its receipt by EPA.

(c) The Record Clerk for each rulemaking will be responsible for EPA compliance with the requirements of paragraph (a) of this section.

§ 750.35 Public comments.

(a) Main comments must be postmarked or received no later than the time specified in the Notice of Proposed Rulemaking and must contain all comments on and criticisms of that Notice by the commenting person, based on information which is or reasonably could have been available to that person at the time.

(b) Reply comments must be postmarked or received no later than one week after the close of all informal hearings on the proposed rule and must be restricted to comments on:

(1) Other comments;

(2) Material in the hearing record; and

(3) Material which was not and could not reasonably have been available to the commenting party a sufficient time before main comments were due.

(c) Extensions of the time for filing comments may be granted in writing by the Hearing Chairman. Application for an extension must be made in writing. Comments submitted after the comment period and all extensions of it have expired need not be added to the rulemaking record and need not be considered in decisions concerning the rule.

(d) Unless the Notice of Proposed Rulemaking states otherwise, four copies of all comments must be submitted.

§ 750.36 Confidentiality.

EPA encourages the submission of non-confidential information by petitioners and commentors. EPA does not wish to have unnecessary restrictions on access to the rulemaking record. However, if a petitioner or commentor believes that he can only state his position through the use of information claimed to be confidential, he may submit it. Such information must be separately submitted for the rulemaking record and marked "confidential" by the submitter. For the information claimed to be confidential, EPA will list only the date and the name and address of the petitioner or commentor in the public file, noting that the petitioner or commentor has requested confidential treatment. The information claimed to be confidential will be placed in a confidential file. A petitioner must also file a non-confidential petition with a non-confidential summary of the confidential information to be placed in the public file. Similarly, a commentor must supply a non-confidential summary of the information claimed to be confidential to be placed in the public file. Any information not marked as confidential will be placed in the public file. Information marked confidential will be treated in accordance with the procedures in Part 2, Subpart B of this Title.

§ 750.37 Subpoenas.

(a) Where necessary, subpoenas requiring the production of documentary material, the attendance of persons at the hearing, or responses to written questions may be issued. Subpoenas may be issued either upon request as provided in paragraph (b) or by EPA on its own motion.

(b) All subpoena requests must be in writing. Hearing participants may request the issuance of subpoenas as follows:

(1) Subpoenas for the attendance of persons or for the production of documents or responses to questions at the legislative hearing may be requested at any time up to the deadline for filing main comments.

(2) Subpoenas for production of documents or answers to questions after the legislative hearing may be requested at any time between the beginning of the legislative hearing and the deadline for submitting reply comments.

(c) EPA will rule on all subpoena requests filed under paragraph (b)(1) no later than the beginning of the informal hearing. Such requests may be granted, denied, or deferred. EPA will rule on all subpoena requests filed under paragraph (b)(2) and all deferred subpoena requests filed under paragraph (b)(1) no later than the promulgation of the final rule. Such requests will be either granted or denied.

§ 750.38 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA must file a written request to participate with the Hearing Clerk. This request must be received no later than seven days prior to the scheduled start of the hearing. The hearing will begin seven days after the close of the thirty day comment period or as soon thereafter as practicable. The request must include:

(1) A brief statement of the interest of the person or organization in the proceeding;

(2) A brief outline of the points to be addressed;

(3) An estimate of the time required; and

(4) If the request comes from an organization, a nonbinding list of the persons to take part in the presentation. Organizations are requested to bring with them, to the extent possible, employees with individual expertise in and responsibility for each of the areas to be addressed. No organization not filing main comments in the rulemaking will be allowed to participate at the hearing, unless a waiver of this requirement is granted in writing by the Hearing Chairman or the organization is appearing at the request of EPA or under subpoena.

(b) No later than three days prior to the start of the hearing, the Hearing Clerk will make a hearing schedule publicly available and mail or deliver it to each of the persons who requested to appear at the hearing. This schedule will be subject to change during the course of the hearing at the discretion of those presiding over it.

(c) Opening statements should be brief, and restricted either to points that could not have been made in main comments or to emphasizing points which are made in main comments, but which the participant believes can be more forcefully urged in the hearing context.

§ 750.39 Conduct of informal hearing.

(a) A panel of EPA employees shall preside at each hearing conducted under section 6(c)(2)(C) of TSCA. In appropriate cases, other Executive Branch employees may also sit with and assist the panel. The membership of the panel may change as different topics arise during the hearing. In general, the panel membership will consist of EPA employees with special responsibility for the final rule or special expertise in the topics under discussion. One member of the panel will be named to chair the proceedings and will attend throughout the hearing, unless unavoidably prevented by sickness or similar personal circumstances.

(b) The panel may question any individual or group participating in the hearing on any subject relating to the rulemaking. Cross-examination by others will normally not be permitted at this stage. It may be granted in compelling circumstances at the sole discretion of the hearing panel. However, persons in the hearing audience may submit questions in writing for the hearing panel to ask the participants, and the hearing panel may, at their discretion, ask these questions.

(c) Participants in the hearing may submit additional material for the hearing record and shall submit such additional material as the hearing panel may request. All such submissions will become part of the record of the hearing. A verbatim transcript of the hearing shall be made. Participants will be allowed to designate testimony from prior EPA informal rulemaking hearings concerning PCBs under TSCA. The hearing panel may reject repetitive testimony previously presented at such hearings.

§ 750.40 Cross-examination.

(a) After the close of the informal hearing conducted under § 750.39, any participant in that hearing may submit a written request for cross-examination. The request must be received by EPA within one week after a full transcript of the informal hearing becomes available and must specify:

(1) The disputed issue(s) of material fact as to which cross-examination is requested. This must include an explanation of why the questions at issue are "factual", rather than of an analytical or policy nature, the extent to which they are in "dispute" in the light of the record made thus far, and the extent to which and why they can reasonably be considered "material" to the decision on the final rule; and

(2) The person(s) the participant desires to cross-examine, and an estimate of the time necessary. This must include a statement as to how the cross-examination requested can be expected to result in "full and true disclosure" resolving the issue of material fact involved.

(b) Within one week after receipt of all requests for cross-examination under paragraph (a), the hearing panel will rule on them. The ruling will be served by the Hearing Clerk on all participants who have requested cross-examination and will be inserted in the record. Written notice of the ruling will be given to all persons requesting cross-examination and all persons to be cross-examined. The ruling will specify:

(1) The issues as to which cross-examination is granted;

(2) The persons to be cross-examined on each issue;

(3) The persons to be allowed to conduct cross-examination; and

(4) Time limits for the examination of each witness by each cross-examiner.

(c) In issuing this ruling, the panel may determine that one or more participants who have requested cross-examination have the same or similar interests and should be required to choose a single representative for purposes of cross-examination by that single representative without identifying the representative further. Subpoenas for witnesses may be issued where necessary.

(d) Within one week after the insertion into the record of the ruling under paragraph (b), the hearing at which the cross-examination will be conducted will begin. One or more members of the original panel will preside for EPA. The panel will have authority to conduct cross-examination on behalf of any participant, although as a general rule this right will not be exercised. The panel will also have authority to modify the governing ruling in any respect and to make new rulings on group representation under section 6(c)(3)(C) of TSCA. A verbatim transcript of the hearing will be made.

(e)(1) No later than the time set for requesting cross-examination, a hearing participant may request that other alternative methods of clarifying the record (such as informal conferences or the submittal of additional information) be used. Such requests may be submitted either in lieu of cross-examination requests, or in conjunction with them.

(2) The panel in passing on a cross-examination request may, as a precondition to ruling on its merits, require that alternative means of clarifying the record be used whether or not that has been requested under paragraph (e)(1) of this section. In such a case, the results of the use of such alternative means will be made available to the person requesting cross-exami-

nation for a one-week comment period, and the panel will make a final ruling on cross-examination within one week thereafter.

(f) Waivers or extensions of any deadline in this section applicable to persons other than EPA may be granted on the record of the hearing by the person chairing it or in writing by the Hearing Chairman.

§ 750.41 Final rule.

(a) As soon as feasible after the deadline for submittal of reply comments, EPA will issue a final rule. EPA will also publish at that time:

(1) A list of all material added to the record (other than public comments and material from the hearing record) which has not previously been listed in a FEDERAL REGISTER document, and

(2) The effective date of the rule.

(b) Pursuant to the delegation of authority made in the Preamble to the Final Regulation for the PCB Manufacturing, Processing, Distribution in Commerce and Use Prohibitions, the Assistant Administrator for Toxic Substances will grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to § 750.31. The Assistant Administrator will act on such petitions subsequent to opportunity for an informal hearing pursuant to this rule.

(c) In determining whether to grant an exemption to the PCB ban, EPA will apply the two standards enunciated in section 6(e)(3)(B) of TSCA

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS

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Subpart J—Records and Reports

761.80 Records and Monitoring.

AUTHORITY: Secs. 6, 8, and 12, Toxic Substances Control Act, 15 U.S.C. 2605, 2607, and 2611.

SOURCE: 44 FR 31542, May 31, 1979, unless otherwise noted.

Subpart A—General

§ 761.1 Applicability.

(a) This part establishes prohibitions of, and requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.

(b) This part applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs or PCB Items. Unless it is otherwise specifically provided, the terms PCB and PCBs are used in this rule to refer to any chemical substances and combinations of substances that contain 50 ppm (on a dry weight basis) or greater of PCBs, as defined in § 761.3(s), including any byproduct, intermediate, or impurity manufactured at any point in a process. Any chemical substances and combinations of substances that contain less than 50 ppm PCBs because of any dilution, shall be included as PCB and PCBs unless otherwise specifically provided. Substances that are regulated by this rule include, but are not limited to, dielectric fluids, contaminated solvents, oils, waste oils, heat transfer fluids, hydraulic fluids, paints, sludges, slurries, dredge spoils, soils, materials contaminated as a result of spills, and other chemical substances or combination of substances, including impurities and byproducts.

(c) Definitions of the terms used in these regulations are in Subpart A. The basic requirements applicable to disposal and marking of PCBs and PCB Items are set forth in Subpart D—Disposal of PCBs and PCB Items and in Subpart C—Marking of PCBs and PCB Items. Prohibitions applicable to PCB activities are set forth in Subpart B—Manufacture, Processing, Distribution in Commerce, and Use of PCBs and PCB Items. Subpart B also includes authorizations from the prohibitions. Subparts C and D set forth the specific requirements for disposal and marking of PCBs and PCB Items.

(d) Section 15 of the Toxic Substances Control Act (TSCA) states that failure to comply with these regulations is unlawful. Section 16 imposes liability for civil penalties upon any person who violates these regulations, and the Administrator can establish appropriate remedies for any violations subject to any limitations included in section 16 of TSCA. Section 16 also subjects a person to criminal prosecution for a violation which is knowing or willful. In addition, section 17 authorizes Federal district courts to enjoin activities prohibited by these regulations, compel the taking of actions required by these regulations, and issue orders to seize PCBs and PCB Items manufactured, processed or distributed in violation of these regulations.

(e) These regulations do not preempt other more stringent Federal statutes and regulations.

[44 FR 31542, May 31, 1979]

§ 761.3 Definitions.

For the purpose of this part:

(a) "Administrator" means the Administrator of the Environmental Protection Agency, or any employee of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any person who shall by operation of law be authorized to carry out such functions.

(b) "Agency" means the United States Environmental Protection Agency.

(c) "Byproduct" means a chemical substance produced without separate commercial intent during the manufacturing or processing of another chemical substance(s) or mixture(s).

(d) "Capacitor" means a device for accumulating and holding a charge of electricity and consisting of conducting surfaces separated by a dielectric. Types of capacitors are as follows:

(1) "Small capacitor" means a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric fluid.

(2) "Large high voltage capacitor" means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectic fluid and which operates at 2000 volts a.c. or above.

(3) "Large low voltage capacitor" means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectric fluid and which operates below 2000 volts a.c.

(e)(1) "Chemical substance", except as provided in paragraph (e)(2) of this section, means any organic or inorganic substance of a particular molecular identity, including:

(i) Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and

(ii) Any element or uncombined radical.

(2) Such term does not include:

(i) Any mixture,

(ii) Any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) Tobacco or any tobacco product,

(iv) Any source material, special nuclear material, or by product material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) Any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or section 4221 or any provisions of such Code), and

(vi) Any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(f) "Chemical waste landfill" means a landfill at which protection against risk of injury to health or the environment from migration of PCBs to land, water, or the atmosphere is provided from PCBs and PCB Items deposited therein by locating, engineering, and operating the landfill as specified in § 761.75.

(g) "Commerce" means trade, traffic, transportation, or other commerce:

(1) Between a place in a State and any place outside of such State, or

(2) Which affects trade, traffic, transportation, or commerce described in paragraph (g)(1) of this section.

(h) "Disposal" means to intentionally or accidentally discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. Disposal includes actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.

(i) "Distribute in commerce" and "Distribution in Commerce" when used to describe an action taken with respect to a chemical substance, mixture, or article containing a substance or mixture means to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of the substance, mixture, or article; or to hold or the holding of, the substance, mixture, or article after its introduction into commerce.

(j) "Fluorescent light ballast" means a device that electrically controls fluorescent light fixtures and that includes a capacitor containing 0.1 kg or less of dielectic.

(k) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(l) "Incinerator" means an engineered device using controlled flame combustion to thermally degrade PCBs and PCB Items. Examples of devices used for incineration include rotary kilns, liquid injection incinerators, cement kilns, and high temperature boilers.

(m) "Leak" or "leaking" means any instance in which a PCB Article, PCB Container, or PCB Equipment has any PCBs on any portion of its external surface.

(n) "Manufacture" means to produce, manufacture, or import into the customs territory of the United States.

(o) "Mark" means the descriptive name, instructions, cautions, or other information applied to PCBs and PCB Items, or other objects subject to these regulations.

(p) "Marked" means the marking of PCB Items and PCB storage areas and transport vehicles by means of applying a legible mark by painting, fixation of an adhesive label, or by any other method that meets the requirements of these regulations.

(q) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

(r) "Municipal solid wastes" means garbage, refuse, sludges, wastes, and other discarded materials resulting from residential and non-industrial operations and activities, such as household activities, office functions, and commercial housekeeping wastes.

(s) "PCB" and "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance. (See § 761.1(b) Applicability for applicable concentrations of PCBs). PCB and PCBs as contained in PCB Items are defined in § 761.3(x).

(t) "PCB Article" means any manufactured article, other than a PCB Container that contains PCBs and whose surface(s) has been in direct contact with PCBs. "PCB Article" includes capacitors, transformers, electric motors, pumps, pipes and any other manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB Article.

(u) "PCB Article Container" means any package, can, bottle, bag, barrel, drum, tank or other device used to contain PCB Articles or PCB Equipment, and whose surface(s) has not been in direct contact with PCBs.

(v) "PCB Container" means any package, can, bottle, bag, barrel, drum, tank, or other device that contains PCBs or PCB Articles and whose surface(s) has been in direct contact with PCBs.

(w) "PCB Equipment" means any manufactured item, other than a PCB Container or a PCB Article Container, which contains a PCB Article or other PCB Equipment, and includes microwave ovens, electronic equipment, and fluorescent light ballasts and fixtures.

(x) "PCB Item" is defined as any PCB Article, PCB Article Container, PCB Container, or PCB Equipment, that deliberately or unintentionally contains or has as a part of it any PCB or PCBs at a concentration of 50 ppm or greater.

(y) "PCB Transformer" means any transformer that contains 500 ppm PCB or greater.

(z) "PCB-Contaminated Transformer" means any transformer that contains 50 ppm or greater of PCB but less than 500 ppm PCB (See § 761.30(a)(5) for provisions permitting reclassifying PCB Transformers to PCB-Contaminated Transformers).

(aa) "Person" means any natural or judicial person including any individual, corporation, partnership, or association; any State or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

(bb) "Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce:

(1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(2) As part of an article containing the chemical substance or mixture.

(cc) "Sale for purposes other than resale" means sale of PCBs for purposes of disposal and for purposes of use, except where use involves sale for distribution in commerce. PCB Equipment which is first leased for purposes of use any time before July 1, 1979, will be considered sold for purposes other than resale.

(dd) "Significant exposure" means any exposure of human beings or the environment to PCBs as measured or detected by any scientifically acceptable analytical method.

(ee) "Small quantities for research and development" means any quantity of PCBs (1) that is originally packaged in one or more hermetically sealed containers of a volume of no more than five (5.0) milliliters, and (2) that is used only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of, PCBs, but not for research or analysis for the development of a PCB product.

(ff) "Storage for disposal" means temporary storage of PCBs that have been designated for disposal.

(gg) "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (e.g., trailer, railroad freight car) is a separate transport vehicle.

(hh) "Totally enclosed manner" means any manner that will ensure that any exposure of human beings or the environment to any concentration of PCBs will be insignificant; that is, not measurable or detectable by any scientifically acceptable analytical method.

(ii) "Waste oil" means used products primarily derived from petroleum, which include, but are not limited to, fuel oils, motor oils, gear oils, cutting oils, transmission fluids, hydraulic fluids, and dielectric fluids.

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

§ 761.19 References.

(a) [Reserved]

(b) *Incorporations by reference.* The following material is incorporated by reference, and is available for inspection at the Office of the Federal Register Information Center, Rm. 8301, 1100 L St. NW., Washington, DC 20408. These incorporations by reference were approved by the Director of the Office of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the FEDERAL REGISTER. Copies of the incorporated material may be obtained from the Environmental Protection Agency Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, Rm. 106, 401 M St., SW., Washington, D.C. 20460, and from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

	CFR Citation
ASTM D93-77 Standard Test Method for Flash Point by Pensky-Martens Closed Tester.	§ 761.60(a)(3)(iii)(B)(*6*); § 761.75(b)(8)(iii).
ASTM D129-64 (Reapproved 1978) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method).	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D240-76 (Reapproved 1980) Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by Bomb Calorimeter.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D482-74 Standard Test Method for Ash from Petrolum Products.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D524-76 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D808-63 (Reapproved 1976) Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method).	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D923-75 Standard Test Method for Sampling Electrical Insulating Liquids.	§ 761.60(g)(1)(ii); § 761.60(g)(2)(ii).
ASTM D1266-70 (Reapproved 1975) Standard Test Method for Sulfur in Petrolum Products (Lamp Method).	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D1796-68 (Reapproved 1977) Standard Test Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D2158-65 (Reapproved 1975) Standard Test Method for Residues in Liquefied Petroleum (LP) Gas.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D2709-68 (Reapproved 1977) Standard Test Method for Water and Sediment in Distillate Fuel by Centrifuge.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D2784-70 (Reapproved 1975) Standard Test Method for Sulfur in Liquefied Petroleum Gases (Oxyhydrogen Burner or Lamp).	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D3178-73 (Reapproved 1979) Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coke and Coal.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D3278-73 Standard Test Methods for Flash Point of Liquid by Setaflash Closed Tester.	§ 761.75(b)(8)(iii).
ASTM E258-67 (Reapproved 1977) Standard Test Method for Total Nitrogen Inorganic Material by Modified KJELDAHL Method.	§ 761.60(a)(3)(iii)(B)(*6*).

[47 FR 22098, May 21, 1982]

Subpart B—Manufacturing, Processing, Distribution in Commerce, and Use of PCBs and PCB Items

§ 761.20 Prohibitions.

Except as authorized in § 761.30, the activities listed in paragraphs (a) and (d) of this section are prohibited pursuant to section 6(e)(2) of TSCA. The requirements set forth in paragraphs (b) and (c) of this section concerning export and import of PCBs for purposes of disposal and PCB Items for purposes of disposal are established pursuant to section 6(e)(1) of TSCA. Subject to any exemptions granted pursuant to section 6(e)(3)(B) of TSCA, the activities listed in paragraphs (b) and (c) of this section are prohibited pursuant to section 6(e)(3)(A) of TSCA. In addition, the Administrator hereby finds, under the authority of section 12(a)(2) of TSCA, that the manufacture, processing, and distribution in commerce of PCBs and PCB Items for export from the United States presents an unreasonable risk of injury to health within the United

States. This finding is based upon the well-documented human health and environmental hazard of PCB exposure; the high probability of human and environmental exposure to PCBs and PCB Items from manufacturing, processing, or distribution activities; the potential hazard of PCB exposure posed by the transportation of PCBs or PCB Items within the United States; and the evidence that contamination of the environment by PCBs is spread far beyond the areas where they are used. In addition, the Administrator hereby finds that any exposure of human beings or the environment to PCBs as measured or detected by any scientifically acceptable analytical method is a significant exposure, as defined in § 761.3(dd). Section 761.3(hh) and TSCA section 6(e)(2)(C) define the term totally enclosed manner as "any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant. . . ." Since any exposure to PCBs is found to be a significant exposure, a totally enclosed manner is a manner that results in no exposure of humans or the environment to PCBs. The following activities are considered totally enclosed: distribution in commerce and use (except servicing) of intact, non-leaking PCB Transformers or PCB-Contaminated Transformers (except those used in railroad locomotives or self-propelled cars); distribution in commerce and use (except servicing) of intact, non-leaking PCB electromagnets; distribution in commerce and use of intact, non-leaking PCB Capacitors; and processing, distribution in commerce, and use of PCB Equipment containing an intact, non-leaking PCB Capacitor.

(a) No person may process, distribute in commerce, or use any PCB or PCB Item in any manner other than in a totally enclosed manner within the United States or export any such PCB or PCB Item from the United States unless authorized under § 761.30 of this subpart. Paragraph (a) of this section is superseded by paragraph (c) for processing and distribution in commerce of PCBs and PCB Items on the dates when that section becomes effective.

(b) No person may manufacture PCBs for use within the United States or manufacture PCBs for export from the United States without an exemption except that:

(1) PCBs or PCB Items may be imported for purposes of disposal until May 1, 1980, provided that the disposal is in accordance with § 761.60;and

(2) PCBs or PCB Items may be exported for disposal until May 1, 1980, in accordance with the requirements of paragraph (c)(3) of this section.

(c) Effective July 1, 1979, no person may process or distribute in commerce any PCB or PCB Item for use within the United States or for export from the United States without an exemption except that:

(1) PCBs or PCB Items sold before July 1, 1979, for purposes other than resale may be distributed in commerce only in a totally enclosed manner after that date;

(2) PCBs or PCB Items may be processed and distributed in commerce in compliance with the requirements of this part for purposes of disposal in accordance with the requirements of § 761.60;

(3) PCBs or PCB Items may be exported for disposal until May 1, 1980, if an export notice is submitted at least thirty (30) days before the first shipment in any calendar year leaves the customs territory of the United States. Export notices must be submitted to the Document Control Officer (TS-793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The generator of the PCB waste material intended for disposal, or an agent acting on his behalf, must certify to the best of his knowledge and belief that the information is complete and accurate. Each notice should contain the following information:

(i) Name, company name, address, and telephone number of the owner of the PCB waste material to be exported and the name and address of any person or agent acting on his behalf;

(ii) Estimated quantity of wastes to be shipped during the calendar year and the estimated number of shipments to be made and the dates when such shipments are expected to leave the customs territory of the United States;

(iii) Description of the PCBs or PCB Items being exported;

(iv) Country(s) of destination for the shipments;

(v) Name and address of facility(s) receiving the shipment and person(s) responsible for receiving the shipment(s).

(vi) Method(s) of disposal and precautions taken to control release into the environment.

(vii) No less than 30 days after the end of each calendar quarter (March 31, June 30, September 30, and December 31) during which PCBs were exported for disposal, each person exporting the PCBs must submit a report to the Document Control Officer (TS-793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The report shall list the quantity of PCB wastes in each shipment made during the quarter and include the date when each shipment left the customs territory of the United States and the information specified in paragraphs (c)(3)(i) and (iii) through (vi) of this section. If the quantity of wastes shipped during the calendar year exceeds by 25 percent or more the estimated quantities reported in paragraph (c)(3)(ii) of this section, a special export notice must be submitted to the Document Control Officer (TS-793) at the address given in paragraph (c)(3) at least 30 days before any additional shipments leave the customs territory of the United States and the notice shall include the information specified in paragraphs (c)(3) (i) through (vi) of this section.

(viii) Any person expecting to export PCB wastes for disposal in calendar year 1980 must submit an export notice at least thirty (30) days before the first shipment leaves the customs territory of the United States to the Document Control Officer (TS-793) at the address given in paragraph (c)(3) of this section, and the notice shall contain the information listed in paragraphs (c)(3) (i) through (vi) of this section.

(d) The use of waste oil that contains any detectable concentration of PCB as a sealant, coating, or dust control agent is prohibited. Prohibited uses include, but are not limited to, road oiling, general dust control, use as a pesticide or herbicide carrier, and use as a rust preventative on pipes.

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

§ 761.30 Authorizations.

The following non-totally enclosed PCB activities are authorized pursuant to section 6(e)(2)(B) of TSCA:

(a) *Servicing transformers (other than railroad transformers).* PCBs may be processed, distributed in commerce, and used for the purposes of servicing including rebuilding transformers (other than transformers for railroad locomotives and self-propelled railroad cars) in a manner other than a totally enclosed manner until July 1, 1984, subject to the following conditions:

(1) Regardless of its PCB concentration, dielectric fluids containing less than 500 ppm PCB that are mixed with fluids that contain 500 ppm or greater PCB must not be used as dielectric fluid in any transformer. Dielectric fluid from PCB-Contaminated Transformers may be assumed to have less than 500 ppm PCBs.

(2) PCB-Contaminated Transformers (as defined in § 761.3(z)) may only be serviced (including rebuilding) with dielectric fluid containing less than 500 ppm PCB.

(3) Any servicing (including rebuilding) of PCB Transformers (as defined in § 761.3(y)) that requires the removal of the transformer coil from the transformer casing is prohibited. PCB Transformers may be topped off with PCB dielectric fluid.

(4) PCBs removed during servicing of a PCB Transformer or PCB-Contaminated Transformer or during rebuilding of a PCB-Contaminated Transformer must be captured and either reused as dielectric fluid or disposed of in accordance with the requirements of Subpart B. PCBs from PCB Transformers must not be mixed with or added to dielectric fluid from PCB-Contaminated Transformers.

(5) A PCB Transformer may be converted to a PCB-Contaminated Trans-

former by draining, refilling, and otherwise servicing the transformer with non-PCB dielectric fluid so that after a minimum of three months of in-service use subsequent to the last servicing conducted for the purpose of reducing the PCB concentration in the transformer, the transformer's dielectric fluid contains less than 500 ppm PCB (on a dry weight basis).

(6) Any PCB dielectric fluid that is on hand to service a PCB Transformer or a PCB-Contaminated Transformer must be stored in accordance with the storage for disposal requirements of § 761.65.

(7) After July 1, 1979, processing and distribution in commerce of PCBs for purposes of servicing transformers is permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B).

(b) *Use in and servicing of railroad transformers.* PCBs may be used in transformers in railroad locomotives or railroad self-propelled cars ("railroad transformers") and may be processed and distributed in commerce for purposes of servicing these transformers in a manner other than a totally enclosed manner until July 1, 1984, subject to the following conditions:

(1) *Use restrictions.* (i) After January 1, 1982, use of railroad transformers that contain dielectric fluids with a PCB concentration greater than 60,000 ppm (6.0% on a dry weight basis) is prohibited;

(ii) After January 1, 1984, use of railroad transformers which contain dielectric fluids with a PCB concentration greater than 1000 ppm (0.10% on a dry weight basis) is prohibited;

(iii) The concentration of PCBs in the dielectric fluid contained in railroad transformers must be measured:

(A) Immediately upon completion of any authorized servicing of a railroad transformer conducted for the purpose of reducing the PCB concentration in the dielectric fluid in the transformer; and

(B) Between 12 and 24 months after each servicing conducted in accordance with paragraph (b)(1)(iii)(A);

(C) The data obtained as a result of paragraph (b)(1)(iii) (A) and (B) of this section shall be retained until January 1, 1991.

(2) *Servicing restrictions.* (i) If the coil is removed from the casing of a railroad transformer (e.g., the transformer is rebuilt), after January 1, 1982, the railroad transformer may not be refilled with dielectric fluid containing a PCB concentration greater than 50 ppm;

(ii) After January 1, 1982, railroad transformers may only be serviced with dielectric fluid containing less than 60,000 ppm PCBs, except as provided in paragraph (b)(2)(i) of this section;

(iii) After January 1, 1984, railroad transformers may only be serviced with dielectric fluid containing less than 1000 ppm PCB, except as provided in paragraph (b)(2)(i) of this section;

(iv) Dielectric fluid may be filtered through activated carbon or otherwise industrially processed for the purpose of reducing the PCB concentration in the fluid;

(v) Any PCB dielectric fluid that is used to service PCB railroad transformers must be stored in accordance with the storage for disposal requirements of § 761.65;

(vi) After July 1, 1979, processing and distribution in commerce of PCBs for purposes of servicing railroad transformers is permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B).

(c) *Use in and servicing of mining equipment.* PCBs may be used in mining equipment and may be processed and distributed in commerce for purposes of servicing mining equipment in a manner other than a totally enclosed manner until January 1, 1982, subject to the following conditions:

(1) PCBs may be added to motors in mining equipment in mines or mining areas until January 1, 1982;

(2) PCB motors in loader-type mining equipment must be rebuilt as air-cooled or other non-PCB-containing motors whenever the motor is returned to a service shop for servicing;

(3) PCB motors in continuous miner-type equipment may be rebuilt as PCB motors until January 1, 1980;

(4) Any PCBs that are on hand to service or repair mining equipment must be stored in accordance with the

storage for disposal requirements of § 761.65;

(5) After July 1, 1979, processing and distribution in commerce of PCBs for purposes of servicing mining equipment is permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B).

(d) *Use in heat transfer systems.* PCBs may be used in heat transfer systems in a manner other than a totally enclosed manner until July 1, 1984, subject to the following conditions:

(1) Each person who owns a heat transfer system that ever contained PCBs must test for the concentration of PCBs in the heat transfer fluid of such a system no later than November 1, 1979, and at least annually thereafter. All test sampling must be performed at least three months after the most recent fluid refilling. When a test shows that the PCB concentration is less than 50 ppm, testing under this paragraph is no longer required;

(2) Within six (6) months of a test performed under paragraph (d)(1) that indicates that a system's fluid contains 50 ppm or greater PCB (0.005% on a dry weight basis), the system must be drained of the PCBs and refilled with fluid containing less than 50 ppm PCB. Topping-off with non-PCB heat transfer fluids to reduce PCB concentrations is permitted;

(3) After November 1, 1979, no heat transfer system that is used in the manufacture or processing of any food, drug, cosmetic, or device, as defined in section 201 of the Federal Food, Drug, and Cosmetic Act, may contain heat transfer fluid with 50 ppm or greater PCB (0.005% on a dry weight basis);

(4) Addition of PCBs to a heat transfer system is prohibited.

(5) Data obtained as a result of paragraph (d)(1) must be retained for five (5) years after the heat transfer system reaches 50 ppm PCB;

(e) *Use in hydraulic systems.* PCBs may be used in hydraulic systems and may be processed and distributed in commerce for purposes of filtering, distilling, or otherwise reducing the concentration of PCBs in hydraulic fluids in a manner other than a totally enclosed manner until July 1, 1984, subject to the following conditions:

(1) Each person who owns a hydraulic system that ever contained PCBs must test for the concentration of PCBs in the hydraulic fluid of each such system no later than November 1, 1979, and at least annually thereafter. All test sampling must be performed at least three months after the most recent fluid refilling. When a test shows that the PCB concentration is less than 50 ppm, testing under this subparagraph is no longer required;

(2) Within six (6) months of a test under paragraph (e)(1) that indicates that a system's fluid contains 50 ppm or greater PCB (0.005% on a dry weight basis), the system must be drained of the PCBs and refilled with fluid containing less than 50 ppm PCB. Topping-off with non-PCB hydraulic fluids to reduce PCB concentrations is permitted;

(3) Addition of PCBs to a hydraulic system is prohibited;

(4) Hydraulic fluid may be drained from a hydraulic system and filtered, distilled, or otherwise serviced in order to reduce the PCB concentration below 50 ppm;

(5) After July 1, 1979, processing and distribution in commerce of PCBs for purposes of servicing hydraulic systems is permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B);

(6) Data obtained as a result of paragraph (e)(1) above must be retained for five years after the hydraulic system reaches 50 ppm.

(f) *Use in carbonless copy paper.* Carbonless copy paper containing PCBs may be used in a manner other than a totally enclosed manner indefinitely.

(g) *Pigments.* Diarylide and Phthalocyanin pigments that contain 50 ppm or greater PCB may be processed, distributed in commerce, and used in a manner other than a totally enclosed manner until January 1, 1982, except that after July 1, 1979, processing and distribution in commerce of diarylide or phthalocyanin pigments that contain 50 ppm or greater PCB is permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B).

(h) *Servicing electromagnets.* PCBs may be processed, distributed in commerce, and used for the purpose of servicing electromagnets until July 1, 1984, in a manner other than a totally enclosed manner subject to the following requirements:

(1) PCBs removed during servicing must be captured and either returned to the electromagnet, reused as a dielectric fluid, or disposed of in accordance with § 761.60;

(2) Servicing of PCB electromagnets (including rebuilding) which requires the removal of the coil from the casing is prohibited.

(3) Any PCBs that are on hand to service a PCB electromagnet must be stored in accordance with the storage for disposal requirements of § 761.65;

(4) After July 1, 1979, processing and distribution in commerce of PCBs for purposes of servicing electromagnets is permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B).

(i) *Use in natural gas pipeline compressors.* PCBs may be used in natural gas pipeline compressors until May 1, 1980, in a manner other than a totally enclosed manner.

(j) *Small quantities for research and development.* PCBs may be processed, distributed in commerce, and used in small quantities for research and development, as defined in § 761.3(ee), in a manner other than a totally enclosed manner until July 1, 1984, except that after July 1, 1979, processing and distribution in commerce of PCBs in small quantities for research and development is permitted only for persons who have been granted an exemption under TSCA section 6(e)(3)(B).

(k) *Microscopy mounting medium.* PCBs may be processed, distributed in commerce, and used as a mounting medium in microscopy in a manner other than a totally enclosed manner until July 1, 1984, except that after July 1, 1979, processing and distribution in commerce of PCBs for purposes of use as a mounting medium in microscopy are permitted only for persons who are granted an exemption under TSCA section 6(e)(3)(B).

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

Subpart C—Marking of PCBs and PCB Items

§ 761.40 Marking requirements.

(a) Each of the following items in existence on or after July 1, 1978 shall be marked as illustrated in Figure 1 in § 761.44(a): The mark illustrated in Figure 1 is referred to as M_L throughout this subpart.

(1) PCB Containers;

(2) PCB Transformers at the time of manufacture, at the time of distribution in commerce if not already marked, and at the time of removal from use if not already marked. [Marking of PCB—Contaminated Transformers is not required];

(3) PCB Large High Voltage Capacitors at the time of manufacture, at the time of distribution in commerce if not already marked, and at the time of removal from use if not already marked;

(4) Equipment containing a PCB Transformer or a PCB Large High Voltage Capacitor at the time of manufacture, at the time of distribution in commerce if not already marked, and at the time of removal of the equipment from use if not already marked;

(5) PCB Large Low Voltage Capacitors at the time of removal from use;

(6) Electric motors using PCB coolants (See also paragraph (e) of this section).

(7) Hydraulic systems using PCB hydraulic fluid (See also paragraph (e) of this section);

(8) Heat transfer systems (other than PCB Transformers) using PCBs (See also paragraph (e) of this section);

(9) PCB Article Containers containing articles or equipment that must be marked under paragraph (a) (1) through (8) above;

(10) Each storage area used to store PCBs and PCB Items for disposal.

(b) As of October 1, 1978, each transport vehicle shall be marked on each end and side with M_L as described in § 761.45(a) if it is loaded with PCB Containers that contain more than 45 kg (99.4 lbs.) of PCBs in the liquid phase or with one or more PCB Transformers (See also paragraph (e) of this section).

(c) As of January 1, 1979, the following PCB Articles shall be marked with mark M_L as described in § 761.45(a):

(1) All PCB Transformers not marked under paragraph (a) of this section (marking of PCB-Contaminated Transformers is not required);

(2) All PCB Large High Voltage Capacitors not marked under paragraph (a) of this section

(i) Will be marked individually with mark M_L, or

(ii) If one or more PCB Large High Voltage Capacitors are installed in a protected location such as on a power pole, or structure, or behind a fence; the pole, structure, or fence shall be marked with mark M_L, and a record or procedure identifying the PCB Capacitors shall be maintained by the owner or operator at the protected location.

(d) As of January 1, 1979, all PCB Equipment containing a PCB Small Capacitor shall be marked at the time of manufacture with the statement, "This equipment contains PCB Capacitor(s)". The mark shall be of the same size as the mark M_L.

(e) As of October 1, 1979, applicable PCB Items in paragraph (a) (1), (6), (7), and (8) containing PCBs in concentrations of 50 to 500 ppm and applicable transport vehicles in paragraph (b) loaded with PCB Containers that contain more than 45 kg (99.4 lbs.) of liquid PCBs in concentrations of 50 ppm to 500 ppm shall be marked with mark M_L as described in § 761.45(a).

(f) Where mark M_L is specified but the PCB Article or PCB Equipment is too small to accomodate the smallest permissible size of mark M_L, mark M_S as described in § 761.45(b), may be used instead of mark M_L.

(g) Each large low voltage capacitor, each small capacitor normally used in alternating current circuits, and each fluorescent light ballast manufactured ("manufactured", for purposes of this sentence, means built) between July 1, 1978 and July 1, 1998 that do not contain PCBs shall be marked by the manufacturer at the time of manufacture with the statement, "No PCBs". The mark shall be of similar durability and readability as other marking that indicate electrical information, part numbers, or the manufacturer's name. For purposes of this paragraph marking requirement only is applicable to items built domestically or abroad after June 30, 1978.

(h) All marks required by this subpart must be placed in a position on the exterior of the PCB Items or transport vehicles so that the marks can be easily read by any persons inspecting or servicing the marked PCB Items or transport vehicles.

(i) Any chemical substance or mixture that is manufactured after the effective date of this rule and that contains less than 500 ppm PCB (0.05% on a dry weight basis), including PCB that is a byproduct or impurity, must be marked in accordance with any requirements contained in the exemption granted by EPA to permit such manufacture and is not subject to any other requirement in this subpart unless so specified in the exemption. This paragraph applies only to containers of chemical substances or mixtures. PCB articles and equipment into which the chemical substances or mixtures are processed, are subject to the marking requirements contained elsewhere in this subpart.

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

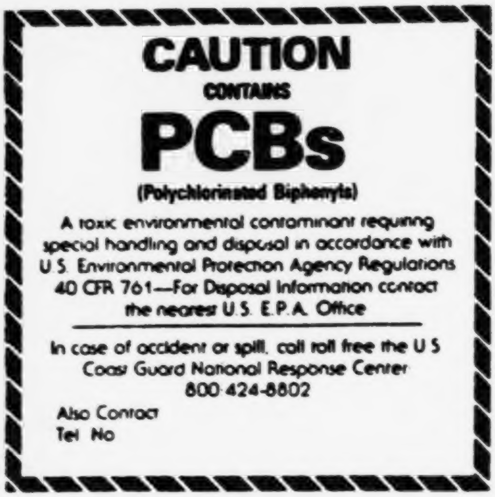
§ 761.45 Marking formats.

The following formats shall be used for marking:

(a) *Large PCB Mark—M_L*. Mark M_L shall be as shown in Figure 1, letters and striping on a white or yellow background and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the PCB Article, PCB Equipment, or PCB Container. The size of the mark shall be at least 15.25 cm (6 inches) on each side. If the PCB Article or PCB Equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 5 cm (2 inches) on each side.

(b) *Small PCB Mark—M_S*. Mark M_S shall be as shown in Figure 2, letters and striping on a white or yellow background, and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the PCB Article, PCB Equipment, or PCB Container. The mark shall be a rectangle

2.5 by 5 cm (1 inch by 2 inches). If the PCB Article or PCB Equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 1 by 2 cm (.4 by .8 inches).

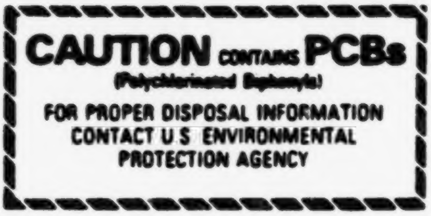


CAUTION
CONTAINS
PCBs
(Polychlorinated Biphenyls)
A toxic environmental contaminant requiring special handling and disposal in accordance with U.S. Environmental Protection Agency Regulations 40 CFR 761—For Disposal Information contact the nearest U.S. E.P.A. Office

In case of accident or spill, call toll free the U.S. Coast Guard National Response Center 800-424-8802

Also Contact
Tel. No.

Figure 1



CAUTION CONTAINS PCBs
(Polychlorinated Biphenyls)
FOR PROPER DISPOSAL INFORMATION CONTACT U.S. ENVIRONMENTAL PROTECTION AGENCY

Figure 2

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

Subpart D—Disposal of PCBs and PCB Items

Note: This subpart does not require removal of PCBs and PCB Items from service and disposal earlier than would normally be the case. However, when PCBs and PCB Items are removed from service and disposed of, disposal must be undertaken in accordance with these regulations. PCBs (including soils and debris) and PCB Items which have been placed in a disposal site are considered to be "in service" for purposes of the applicability of this subpart. This subpart does not require PCBs and PCB Items landfilled prior to February 17, 1978 to be removed for disposal. However, if such PCBs or PCB Items are removed from the disposal site, they must be disposed of in accordance with this subpart. Other subparts are directed to the manufacture, processing, distribution in commerce, and use of PCBs and may result in some cases in disposal at an earlier date than would otherwise occur.

§ 761.60 Disposal requirements.

(a) *PCBs.* (1) Except as provided in paragraph (a) (2), (3), (4), and (5) of this section, PCBs must be disposed of in an incinerator which complies with § 761.70.

(2) Mineral oil dielectric fluid from PCB-Contaminated Transformers containing a PCB concentration of 50 ppm or greater, but less than 500 ppm, must be disposed of in one of the following:

(i) In an incinerator that complies with § 761.70;

(ii) In a chemical waste landfill that complies with § 761.75 if information is provided to the owner or operator of the chemical waste landfill that shows that the mineral oil dielectric fluid does not exceed 500 ppm PCB and is not an ignitable waste as described in § 761.75(b) (8) (iii);

(iii) In a high efficiency boiler provided that:

(A) The boiler complies with the following criteria:

(*1*) The boiler is rated at a minimum of 50 million BTU hours;

(*2*) If the boiler uses natural gas or oil as the primary fuel, the carbon monoxide concentration in the stack is 50 ppm or less and the excess oxygen is at least three (3) percent when PCBs are being burned;

(*3*) If the boiler uses coal as the primary fuel, the carbon monoxide concentration in the stack is 100 ppm or less and the excess oxygen is at least three (3) percent when PCBs are being burned;

(*4*) The mineral oil dielectric fluid does not comprise more than ten (10) percent (on a volume basis) of the total fuel feed rate;

(*5*) The mineral oil dielectric fluid is not fed into the boiler unless the boiler is operating at its normal operating temperature (this prohibits feeding these fluids during either start up or shut down operations);

(*6*) The owner or operator of the boiler:

(*i*) Continuously monitors and records the carbon monoxide concentration and excess oxygen percentage in the stack gas while burning mineral oil dielectric fluid; or

(*ii*) If the boiler will burn less than 30,000 gallons of mineral oil dielectric fluid per year, measures and records the carbon monoxide concentration and excess oxygen percentage in the stack gas at regular intervals of no longer than 60 minutes while burning mineral oil dielectric fluid.

(*7*) The primary fuel feed rates, mineral oil dielectric fluid feed rates, and total quantities of both primary fuel and mineral oil dielectric fluid fed to the boiler are measured and recorded at regular intervals of no longer than 15 minutes while burning mineral oil dielectric fluid.

(*8*) The carbon monoxide concentration and the excess oxygen percentage are checked at least once every hour that mineral oil dielectric fluid is burned. If either measurement falls below the levels specified in this rule, the flow of mineral oil dielectric fluid to the boiler shall be stopped immediately.

(B) Thirty days before any person burns mineral oil dielectric fluid in the boiler, the person gives written notice to the EPA Regional Administrator for the EPA Region in which the boiler is located and that the notice contains the following information:

(*1*) The name and address of the owner or operator of the boiler and the address of the boiler;

(*2*) The boiler rating in units of BTU/hour;

(*3*) The carbon monoxide concentration and the excess oxygen percentage in the stack of the boiler when it is operated in a manner similar to the manner in which it will be operated when mineral oil dielectric fluid is burned; and

(*4*) The type of equipment, apparatus, and procedures to be used to control the feed of mineral oil dielectric fluid to the boiler and to monitor and record the carbon monoxide concentration and excess oxygen percentage in the stack.

(C) When burning mineral oil dielectric fluid, the boiler must operate at a level of output no less than the output at which the measurements required under paragraph (b)(2)(iii)(B)(*3*) of this section were taken.

(D) Any person burning mineral oil dielectric fluid in a boiler obtains the following information and retains the information for five years at the boiler location:

(*1*) The data required to be collected under paragraph (a)(2)(A) (*6*) and (*7*) of this section; and

(*2*) The quantity of mineral oil dielectric fluid burned in the boiler each month;

(iv) In a facility that is approved in accordance with § 761.60(e). For the purpose of burning mineral oil dielectric fluid, an applicant under § 761.60(e) must show that his combustion process destroys PCBs as efficiently as does a high efficiency boiler, as defined in paragraph (b)(2)(iii) of this section, or a § 761.70 approved incinerator.

(3) Liquids, other than mineral oil dielectric fluid, containing a PCB concentration of 50 ppm or greater, but less than 500 ppm, shall be disposed of:

(i) In an incinerator which complies with § 761.70;

(ii) In a chemical waste landfill which complies with § 761.75 if information is provided to the owner or operator of the chemical waste landfill that shows that the waste does not exceed 500 ppm PCB and is not an ignitable waste as described in § 761.75(b)(8)(iii);

(iii) In a high efficiency boiler provided that.

(A) The boiler complies with the following criteria:

(*1*) The boiler is rated at a minimum of 50 million BTU/hour;

(*2*) If the boiler uses natural gas or oil as the primary fuel, the carbon monoxide concentration in the stack is 50 ppm or less and the excess oxygen is at least three (3) percent when PCBs are being burned;

(*3*) If the boiler uses coal as the primary fuel, the carbon monoxide concentration in the stack is 100 ppm or less and the excess oxygen is at least three (3) percent when PCBs are being burned;

(*4*) The waste does not comprise more than ten (10) percent (on a volume basis) of the total fuel feed rate;

(*5*) The waste is not fed into the boiler unless the boiler is operating at its normal operating temperature (this prohibits feeding these fluids during either start up or shut down operations);

(*6*) The owner or operator of the boiler must:

(*i*) Continuously monitor and record the carbon monoxide concentration and excess oxygen percentage in the stack gas while burning waste fluid; or

(*ii*) If the boiler will burn less than 30,000 gallons of waste fluid per year, measure and record the carbon monoxide concentration and excess oxygen percentage in the stack gas at regular intervals of no longer than 60 minutes while burning waste fluid;

(*7*) The primary fuel feed rate, waste fluid feed rate, and total quantities of both primary fuel and waste fluid fed to the boiler must be measured and recorded at regular intervals of no longer than 15 minutes while burning waste fluid; and

(*8*) The carbon monoxide concentration and the excess oxygen percentage must be checked at least once every hour that the waste is burned. If either measurement falls below the levels specified in this rule, the flow of waste to the boiler shall be stopped immediately.

(B) Prior to any person burning these liquids in the boiler, approval must be obtained from the EPA Regional Administrator for the EPA Region in which the boiler is located and any persons seeking such approval must submit to the EPA Regional Administrator a request containing at least the following information:

(*1*) The name and address of the owner or operator of the boiler and the address of the boiler;

(*2*) The boiler rating in units of BTU/hour;

(*3*) The carbon monoxide concentration and the excess oxygen percentage in the stack of the boiler when it is operated in a manner similar to the manner in which it will be operated when low concentration PCB liquid is burned;

(*4*) The type of equipment, apparatus, and procedures to be used to control the feed of mineral oil dielectric fluid to the boiler and to monitor and record the carbon monoxide concentration and excess oxygen percentage in the stack;

(*5*) The type of waste to be burned (e.g., hydraulic fluid, contaminated fuel oil, heat transfer fluid, etc.);

(*6*) The concentration of PCBs and of any other chlorinated hydrocarbon in the waste and the results of analyses using the American Society of Testing and Materials (ASTM) methods as referenced: Carbon and hydrogen content using ASTM D-3178, nitrogen content using ASTM E-258, sulfur content using ASTM D-2784, D-1266, or D-129, chlorine content using ASTM D-808, water and sediment content using either ASTM D-2709 or D-1796, ash content using D-482, calorific value using ASTM D-240, carbon residue using either ASTM D-2158 or D-524, and flash point using ASTM D-93;

(*7*) The quantity of wastes estimated to be burned in a thirty (30) day period;

(*8*) An explanation of the procedures to be followed to insure that burning the waste will not adversely affect the operation of the boiler such that combustion efficiency will decrease.

(C) On the basis of the information in paragraph (a)(3)(iii)(B) of this section and any other available information, the Regional Administrator may, at his discretion, find that the alternate disposal method will not present an unreasonable risk of injury to health or the environment and approve the use of the boiler;

(D) When burning PCB wastes, the boiler must operate at a level of output no less than the output at which the measurements required under paragraph (a)(3)(iii)(B)(*3*) of this section were taken; and

(E) Any person burning liquids in boilers approved as provided in paragraph (a)(3)(iii)(C) of this section, must obtain the following information and retain the information for five years at the boiler location:

(*1*) The data required to be collected in paragraph (a)(3)(iii)(A) (*6*) and (*7*) of this section;

(*2*) The quantity of low concentration PCB liquid burned in the boiler each month.

(*3*) The analysis of the waste required by paragraph (a)(3)(iii)(B)(*6*) of this section taken once a month for each month during which low concentration PCB liquid is burned in the boiler.

(iv) In a facility that is approved in accordance with § 761.60(e). For the purpose of burning liquids, other than mineral oil dielectric fluid, containing 50 ppm or greater PCB, but less than 500 ppm PCB, an applicant under § 761.60(e) must show that his combustion process destroys PCBs as efficiently as does a high efficiency boiler, as defined in § 761.60(a)(2)(iii), or a § 761.70 incinerator.

(4) Any non-liquid PCBs in the form of contaminated soil, rags, or other debris shall be disposed of:

(i) In an incinerator which complies with § 761.70; or

(ii) In a chemical waste landfill which complies with § 761.75.

NOTE: Except as provided in § 761.75(b)(8)(ii), liquid PCBs shall not be processed into non-liquid forms to circumvent the high temperature incineration requirements of § 761.60(a).

(5) All dredged materials and municipal sewage treatment sludges that contain PCBs shall be disposed of:

(i) In an incinerator which complies with § 761.70,

(ii) In a chemical waste landfill which complies with § 761.65; or

(iii) Upon application, using a disposal method to be approved by the Agency's Regional Administrator in the EPA Region in which the PCBs are located. Applications for disposal in a manner other than prescribed in (i) or (ii) above must be made in writing to the Regional Administrator. The application must contain information that, based on technical, environmental, and economic considerations, indicates that disposal in an incinerator or chemical waste landfill is not reasonable and appropriate, and that the alternate disposal method will provide adequate protection to health and the environment. The Regional Administrator may request other information that he or she believes to be necessary for evaluation of the alternate disposal method. Any approval by the Regional Administrator shall be in writing and may contain any appropriate limitations on the approved alternate method for disposal. In addition to these regulations, the Regional Administrator shall consider other applicable Agency guidelines, criteria, and regulations to ensure that the discharges of dredged material and sludges that contain PCBs and other contaminants are adequately controlled to protect the environment. The person to whom such approval is issued must comply with all limitations contained in the approval.

(6) When storage is desired prior to disposal, PCBs shall be stored in a facility which complies with § 761.65.

(b) *PCB Articles*—(1) *Transformers.* (i) PCB Transformers shall be disposed of in accordance with either of the following:

(A) In an incinerator that complies with § 761.70; or

(B) In a chemical waste landfill which complies with § 761.75; *Provided,* That the transformer is first drained of all free flowing liquid, filled with solvent, allowed to stand for at least 18 hours, and then drained thoroughly. PCB liquids that are removed shall be disposed of in accordance with paragraph (a) of this section. Solvents may include kerosene, xylene, toluene and other solvents in which PCBs are readily soluble. Precautionary measures should be taken, however, that the solvent flushing procedure is conducted in accordance with applicable safety and health standards as required by Federal or State regulations.

(ii) PCB-Contaminated Transformers shall be disposed of by draining all free flowing liquid from the transformer and disposing of the liquid in accordance with paragraph (a)(2) of this section. The disposal of the drained transformer is not regulated by this rule.

(2) *PCB Capacitors.* (i) The disposal of any capacitor normally used in alternating current circuits shall comply with all requirements of this subpart unless it is known from label or nameplate information, manufacturer's literature, or chemical analysis that the capacitor does not contain PCBs.

(ii) Any person may dispose of PCB Small Capacitors as municipal solid waste, unless that person is subject to the requirements of paragraph (b)(2)(iv) of this section.

(iii) Any PCB Large High or Low Voltage Capacitor owned by any person shall be disposed of in accordance with either of the following:

(A) Disposal in an incinerator that complies with § 761.70; or

(B) Until March 1, 1981, disposal in a chemical waste landfill that complies with § 761.75.

(iv) Any PCB Small Capacitor owned by any person who manufactures or at any time manufactured PCB Capacitors or PCB Equipment and acquired the PCB Capacitors in the course of such manufacturing shall be disposed of in accordance with either of the following:

(A) Disposal in an incinerator which complies with § 761.70; or

(B) Until March 1, 1981, disposal in a chemical waste landfill which complies with § 761.75.

(v) Notwithstanding the restrictions imposed by paragraph (b)(2)(iii)(B) or (b)(2)(iv)(B) of this section, PCB capacitors may be disposed of in PCB chemical waste landfills that comply with § 761.75 subsequent to March 1, 1981, if the Assistant Administrator for Pesticides and Toxic Substances publishes a notice in the FEDERAL REGISTER declaring that those landfills are available for such disposal and explaining the reasons for the extension or reopening. An extension or reopening for disposal of PCB capacitors that is granted under this subsection shall be subject to such terms and conditions as the Assistant Administrator may prescribe and shall be in effect for such period as the Assistant Administrator may prescribe. The Assistant Administrator may permit disposal of PCB capacitors in EPA approved chemical waste landfills after March 1, 1981, if in his opinion,

(*1*) Adequate incineration capability for PCB capacitors is not available, or

(*2*) The incineration of PCB capacitors will significantly interfere with the incineration of liquid PCBs, or

(*3*) There is other good cause shown.

As part of this evaluation, the Assistant Administrator will consider the impact of his action on the incentives to construct or expand PCB incinerators.

(vi) Prior to disposal in a § 761.75 chemical waste landfill, all large PCB capacitors, and all small PCB capacitors described in paragraph (b)(2)(iv) of this section, shall be placed in one of the Department of Transportation specification containers identified in § 761.65(c)(6) or in containers that comply with 49 CFR 178.118 (specification 17H containers). Large PCB capacitors which are too big to fit inside one of these containers shall be placed in a container with strength and durability equivalent to the DOT specification containers. In all cases, interstitial space in the container shall be filled with sufficient absorbent material (such as sawdust or soil) to absorb any liquid PCBs remaining in the capacitors.

(3) *PCB hydraulic machines.* PCB hydraulic machines such as die casting machines may be disposed of as municipal solid waste or salvage provided that the machines are drained of all free-flowing liquid and the liquid is disposed of in accordance with the provisions of paragraph (a) of this section. If the PCB liquid contains 1000 ppm PCB or greater, then the hydraulic machine must be flushed prior to disposal with a solvent containing less than 50 ppm PCB (see transformer solvents at paragraph (b)(1)(i)(B) of this section) and the solvent disposed of in accordance with paragraph (a) of this section.

(4) Other PCB Articles must be disposed of:

(i) In an incinerator that complies with § 761.70; or

(ii) In a chemical waste landfill that complies with § 761.75, provided that all free-flowing liquid PCBs have been thoroughly drained from any articles before the articles are placed in the chemical waste landfill and that the drained liquids are disposed of in an incinerator that complies with § 761.70.

(5) *Storage of PCB Articles.* Except for a PCB Article described in paragraph (b)(2)(ii) of this section and hydraulic machines that comply with the municipal solid waste disposal provisions described in paragraph (b)(3) of this section, any PCB Article shall be stored in accordance with § 761.65 prior to disposal.

(c) *PCB Containers.* (1) Unless decontaminated in compliance with § 761.79 or as provided in (c)(2) of this section, a PCB Container shall be disposed of:

(i) In an incinerator which complies with § 761.70, or

(ii) In a chemical waste landfill that complies with § 761.75; provided that if there are PCBs in a liquid state, the PCB Container shall first be drained and the PCB liquid disposed of in accordance with paragraph (a) of this section.

(2) Any PCB Container used to contain only PCBs at a concentration less than 500 ppm shall be disposed of as municipal solid wastes; provided that if the PCBs are in a liquid state, the PCB Container shall first be drained and the PCB liquid shall be disposed of in accordance with paragraph (a) of this section.

(3) Prior to disposal, a PCB container shall be stored in a facility which complies with § 761.65.

(d) *Spills.* (1) Spills and other uncontrolled discharges of PCBs constitute the disposal of PCBs.

(2) PCBs resulting from spill cleanup and removal operations shall be stored and disposed of in accordance with paragraph (a) of this section. In order to determine if a spill of PCBs has resulted in a contamination level that is 50 ppm of PCBs or greater in soil, gravel, sludge, fill, rubble, or other land based substances, the person who spills PCBs should consult with the appropriate EPA Regional Administrator to obtain information on sampling methods and analytical procedures for determining the PCB contamination level associated with the spill.

(3) This paragraph does not exempt any person from any actions or liability under other statutory authorities, including section 311 of the Clean Water Act and the Resource Conservation and Recovery Act.

(e) Any person who is required to incinerate any PCBs and PCB Items under this subpart and who can demonstrate that an alternative method of destroying PCBs and PCB Items exists and that this alternative method can achieve a level of performance equivalent to § 761.70 incinerators or high efficiency boilers as provided in paragraph (a)(2)(iv) and (a)(3)(iv) of this section, may submit a written request to the Regional Administrator for an exemption from the incineration requirements of § 761.70. The applicant must show that his method of destroying PCBs will not present an unreasonable risk of injury to health or the environment. On the basis of such information and any available information, the Regional Administrator may, in his discretion, approve the use of the alternate if he finds that the alternate disposal method provides PCB destruction equivalent to disposal in an § 761.70 incinerator and will not present an unreasonable risk of injury to health or the environment. Any approval must be stated in writing and may contain such conditions and provisions as the Regional Administrator deems appropriate. The person to whom such waiver is issued must comply with all limitations contained in such determination.

(f)(1) Each operator of a chemical waste landfill, incinerator, or alternative to incineration approved under paragraph (e) of this section shall give the following written notices to the state and local governments within whose jurisdiction the disposal facility is located:

(i) Notice at least thirty (30) days before a facility is first used for disposal of PCBs required by these regulations; and

(ii) At the request of any state or local government, annual notice of the quantities and general description of PCBs disposed of during the year. This annual notice shall be given no more than thirty (30) days after the end of the year covered.

(iii) The Regional Administrator may reduce the notice period required by paragraph (f)(1)(i) of this section from thirty days to a period of no less than five days in order to expedite interim approval of the chemical waste landfill located in Sedgwick County, Kansas.

(2) Any person who disposes of PCBs under a paragraph (a)(5)(iii) of this section incineration or chemical waste landfilling waiver shall give written notice at least thirty (30) days prior to conducting the disposal activities to the state and local governments within whose jurisdiction the disposal is to take place.

(g) *Testing procedures.* (1) Owners or users of mineral oil dielectric fluid transformers may use the following procedures to determine the concentration of PCBs in the dielectric fluid:

(i) Dielectric fluid removed from mineral oil dielectric fluid transformers may be collected in a common container, provided that no other chemical substances or mixtures are added to the container.

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common containers or the individual transformers to determine the PCB concentration, *Except that* if any PCBs at a concentration of 500 ppm or greater have been added to the container then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this paragraph, representative samples of mineral oil dielectric fluid are either samples taken in accordance with American Society of Testing and Materials method D-923 or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

(2) Owners or users of waste oil may use the following procedures to determine the PCB concentration of waste oil:

(i) Waste oil from more than one source may be collected in a common container, provided that no other chemical substances or mixtures, such as non-waste oils, are added to the container.

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common container or individual containers to determine the PCB concentration *Except that* if any PCBs at a concentration of 500 pm or greater have been added to the container then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this subparagraph, representative samples of waste oil are either samples taken in accordance with American Society of Testing and Materials D-923 method or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

(h) Requirements for export and import of PCBs for purposes of disposal and PCB Items for purposes of disposal are found in § 761.20.

[44 FR 31542, May 31, 1979, as amended at 44 FR 54297, Sept. 19, 1979; 45 FR 20475, Mar. 28, 1980. Redesignated at 47 FR 19527, May 6, 1982]

§ 761.65 Storage for disposal.

(a) Any PCB Article or PCB Container stored for disposal before January 1, 1983, shall be removed from storage and disposed of as required by this part before January 1, 1984. Any PCB Article or PCB Container stored for disposal after January 1, 1983, shall be removed from storage and disposed of as required by Subpart D within one year from the date when it was first placed into storage.

(b) Except as provided in paragraph (c) of this section, after July 1, 1978, owners or operators of any facilities used for the storage of PCBs and PCB Items designated for disposal shall comply with the following requirements:

(1) The facilities shall meet the following criteria:

(i) Adequate roof and walls to prevent rain water from reaching the stored PCBs and PCB Items;

(ii) An adequate floor which has continuous curbing with a minimum six inch high curb. The floor and curbing must provide a containment volume equal to at least two times the internal volume of the largest PCB Article or PCB Container stored therein or 25 percent of the total internal volume of all PCB Articles or PCB Containers stored therein, whichever is greater;

(iii) No drain valves, floor drains, expansion joints, sewer lines, or other openings that would permit liquids to flow from the curbed area;

(iv) Floors and curbing constructed of continuous smooth and impervious materials, such as Portland cement concrete or steel, to prevent or minimize penetration of PCBs; and

(v) Not located at a site that is below the 100-year flood water elevation.

(c)(1) The following PCB Items may be stored temporarily in an area that does not comply with the requirements of paragraph (b) of this section for up to thirty days from the date of their removal from service, provided that a notation is attached to the PCB Item or a PCB Container (containing the item) indicating the date the item was removed from service:

(i) Non-leaking PCB Articles and PCB Equipment;

(ii) Leaking PCB Articles and PCB Equipment if the PCB Items are placed in a non-leaking PCB Container that contains sufficient sorbent materials to absorb any liquid PCBs remaining in the PCB Items;

(iii) PCB Containers containing non-liquid PCBs such as contaminated soil, rags, and debris; and

(iv) PCB Containers containing liquid PCBs at a concentration between 50 and 500 ppm, provided a Spill Prevention, Control and Countermeasure Plan has been prepared for the temporary storage area in accordance with 40 CFR Part 112. In addition, each container must bear a notation that indicates that the liquids in the drum do not exceed 500 ppm PCB.

(2) Non-leaking and structurally undamaged PCB Large High Voltage Capacitors and PCB-Contaminated Transformers that have not been drained of free flowing dielectric fluid may be stored on pallets next to a storage facility that meets the requirements of paragraph (b) of this section until January 1, 1983. PCB-Contaminated Transformers that have been drained of free flowing dielectric fluid are not subject to the storage provisions of § 761.65. Storage under this subparagraph will be permitted only when the storage facility has immediately available unfilled storage space equal to 10 percent of the volume of capacitors and transformers stored outside the facility. The capacitors and transformers temporarily stored outside the facility shall be checked for leaks weekly.

(3) Any storage area subject to the requirements of paragraph (b) or paragraph (c)(1) of this section shall be marked as required in Subpart C—§ 761.40(a)(10).

(4) No item of movable equipment that is used for handling PCBs and PCB Items in the storage facilities and that comes in direct contact with PCBs shall be removed from the storage facility area unless it has been decontaminated as specified in § 761.79.

(5) All PCB Articles and PCB Containers in storage shall be checked for leaks at least once every 30 days. Any leaking PCB Articles and PCB Containers and their contents shall be transferred immediately to properly marked non-leaking containers. Any spilled or leaked materials shall be immediately cleaned up, using sorbents or other adequate means, and the PCB-contaminated materials and residues shall be disposed of in accordance with § 761.60(a)(4).

(6) Except as provided in paragraph (c)(7) below, any container used for the storage of liquid PCBs shall comply with the Shipping Container Specification of the Department of Transportation (DOT), 49 CFR 178.80 (Specification 5 container without removable head), 178.82 (Specification 5B container without removable

head), 178.102 (Specification 6D overpack with Specification 2S(§ 178.35) or 2SL(§ 178.35a) polyethylene containers) or 178.116 (Specification 17E container). Any container used for the storage of non-liquid PCBs shall comply with the specifications of 49 CFR 178.80 (Specification 5 container), 178.82 (Specification 5B container) or 178.115 (Specification 17C container). As an alternate, containers larger than those specified in DOT Specifications 5, 5B, or 17C may be used for non-liquid PCBs if the containers are designed and constructed in a manner that will provide as much protection against leaking and exposure to the environment as the DOT Specification containers, and are of the same relative strength and durability as the DOT Specification containers.

(7) Storage containers for liquid PCBs can be larger than the containers specified in paragraph (c)(6) of this section provided that:

(i) The containers are designed, constructed, and operated in compliance with Occupational Safety and Health Standards, 29 CFR 1910.106, *Flammable and combustible liquids.* Before using these containers for storing PCBs, the design of the containers must be reviewed to determine the effect on the structural safety of the containers that will result from placing liquids with the specific gravity of PCBs into the containers (see 29 CFR 1910.106(b)(i)(f)).

(ii) The owners or operators of any facility using containers described in paragraph (c)(7)(i) of this section shall prepare and implement a Spill Prevention Control and Countermeasure (SPCC) Plan as described in Part 112 of this title. In complying with 40 CFR Part 112, the owner or operator shall read "oil(s)" as "PCB(s)" whenever it appears. The exemptions for storage capacity, 40 CFR 112.1(d)(2), and the amendment of SPCC plans by the Regional Administrator, 40 CFR 112.4, shall not apply unless some fraction of the liquids stored in the container are oils as defined by section 311 of the Clean Water Act.

(8) PCB Articles and PCB Containers shall be dated on the article or container when they are placed in storage. The storage shall be managed so that the PCB Articles and PCB Containers can be located by the date they entered storage. Storage containers provided in paragraph (c)(7) of this section shall have a record that includes for each batch of PCBs the quantity of the batch and date the batch was added to the container. The record shall also include the date, quantity, and disposition of any batch of PCBs removed from the container.

(9) Owners or operators of storage facilities shall establish and maintain records as provided in § 761.80.

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

§ 761.70 Incineration.

(a) *Liquid PCBs.* An incinerator used for incinerating PCBs shall be approved by the Agency Regional Administrator pursuant to paragraph (d) of this section. The incinerator shall meet all of the requirements specified in paragraph (a)(1) through (9) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements which may be prescribed pursuant to paragraph (d)(4) of this section.

(1) Combustion criteria shall be either of the following:

(i) Maintenance of the introduced liquids for a 2-second dwell time at 1200°C(±100°C) and 3 percent excess oxygen in the stack gas; or

(ii) Maintenance of the introduced liquids for a 1½ second dwell time at 1600°C(±100°C) and 2 percent excess oxygen in the stack gas.

(2) Combustion efficiency shall be at least 99.9 percent computed as follows:

Combustion efficiency=
$C_{co_2}/C_{co_2}+C_{co}\times 100$

where

C_{co_2}=Concentration of carbon dioxide.
C_{co}=Concentration of carbon monoxide.

(3) The rate and quantity of PCBs which are fed to the combustion system shall be measured and recorded at regular intervals of no longer than 15 minutes.

(4) The temperatures of the incineration process shall be continuously measured and recorded. The combustion temperature of the incineration

process shall be based on either direct (pyrometer) or indirect (wall thermocouple-pyrometer correlation) temperature readings.

(5) The flow of PCBs to the incinerator shall stop automatically whenever the combustion temperature drops below the temperatures specified in paragraph (a)(1) of this section.

(6) Monitoring of stack emission products shall be conducted:

(i) When an incinerator is first used for the disposal of PCBs under the provisions of this regulation;

(ii) When an incinerator is first used for the disposal of PCBs after the incinerator has been modified in a manner which may affect the characteristics of the stack emission products; and

(iii) At a minimum such monitoring shall be conducted for the following parameters: (a)O_2; (b) CO; (c) CO_2; (d) Oxides of Nitrogen (NO_x); (e) Hydrochloric Acid (HCl); (f) Total Chlorinated Organic Content (RCl); (g) PCBs; and (h) Total Particulate Matter.

(7) At a minimum monitoring and recording of combustion products and incineration operations shall be conducted for the following parameters whenever the incinerator is incinerating PCBs; (i) O_2; (ii) CO; and (iii) CO_2. The monitoring for O_2 and CO shall be continuous. The monitoring for CO_2 shall be periodic, at a frequency specified by the Regional Administrator.

(8) The flow of PCBs to the incinerator shall stop automatically when any one or more of the following conditions occur unless a contingency plan is submitted by the incinerator owner or operator and approved by the Regional Administrator and the contingency plan indicates what alternative measures the incinerator owner or operator would take if any of the following conditions occur:

(i) Failure of monitoring operations specified in paragraph (a)(7) of this section;

(ii) Failure of the PCB rate and quantity measuring and recording equipment specified in paragraph (a)(3) of this section; or

(iii) Excess oxygen falls below the percentage specified in paragraph (a)(1) of this section.

(9) Water scrubbers shall be used for HCl control during PCB incineration and shall meet any performance requirements specified by the appropriate EPA Regional Administrator. Scrubber effluent shall be monitored and shall comply with applicable effluent or pretreatment standards, and any other State and Federal laws and regulations. An alternate method of HCl control may be used if the alternate method has been approved by the Regional Administrator. (The HCl neutralizing capability of cement kilns is considered to be an alternate method.)

(b) *Non-liquid PCBs.* An incinerator used for incinerating non-liquid PCBs, PCB Articles, PCB Equipment, or PCB Containers shall be approved by the Agency Regional Administrator pursuant to paragraph (d) of this section. The incinerator shall meet all of the requirements specified in paragraphs (b)(1) and (2) of this section unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements that may be prescribed pursuant to paragraph (d)(4) of this section.

(1) The mass air emissions from the incinerator shall be no greater than 0.001g PCB/kg of the PCB introduced into the incinerator.

(2) The incinerator shall comply with the provisions of paragraphs (a)(2), (3), (4), (6), (7), (8)(i) and (ii), and (9) of this section.

(c) *Maintenance of data and records.* All data and records required by this section shall be maintained in accordance with § 761.80, Records and monitoring.

(d) *Approval of incinerators.* Prior to the incineration of PCBs and PCB Items the owner or operator of an incinerator shall receive the written approval of the Agency Regional Administrator for the Region in which the incinerator is located. Such approval shall be obtained in the following manner:

(1) *Initial report.* The owner or operator shall submit to the Regional administrator an initial report which contains:

(i) The location of the incinerator;

(ii) A detailed description of the incinerator including general site plans and design drawings of the incinerator;

(iii) Engineering reports or other information on the anticipated performance of the incinerator;

(iv) Sampling and monitoring equipment and facilities available;

(v) Waste volumes expected to be incinerated;

(vi) Any local, State, or Federal permits or approvals; and

(vii) Schedules and plans for complying with the approval requirements of this regulation.

(2) *Trial burn.* (i) Following receipt of the report described in paragraph (d)(1) of this section, the Regional Administrator shall determine if a trial burn is required and notify the person who submitted the report whether a trial burn of PCBs and PCB Items must be conducted. The Regional Administrator may require the submission of any other information that the Regional Administrator finds to be reasonably necessary to determine the need for a trial burn. Such other information shall be restricted to the types of information required in paragraph (d)(1)(i) through (vii) of this section.

(ii) If the Regional Administrator determines that a trial burn must be held, the person who submitted the report described in paragraph (d)(1) of this section shall submit to the Regional Administrator a detailed plan for conducting and monitoring the trial burn. At a minimum, the plan must include:

(A) Date trial burn is to be conducted;

(B) Quantity and type of PCBs and PCB Items to be incinerated;

(C) Parameters to be monitored and location of sampling points;

(D) Sampling frequency and methods and schedules for sample analyses; and

(E) Name, address, and qualifications of persons who will review analytical results and other pertinent data, and who will perform a technical evaluation of the effectiveness of the trial burn.

(iii) Following receipt of the plan described in paragraph (d)(2)(ii) of this section, the Regional Administrator will approve the plan, require additions or modifications to the plan, or disapprove the plan. If the plan is disapproved, the Regional Administrator will notify the person who submitted the plan of such disapproval, together with the reasons why it is disapproved. That person may thereafter submit a new plan in accordance with paragraph (d)(2)(ii) of this section. If the plan is approved (with any additions or modifications which the Regional Administrator may Prescribe), the Regional Administrator will notify the person who submitted the plan of the approval. Thereafter the trial burn shall take place at a date and time to be agreed upon between the Regional Administrator and the persons who submitted the plan.

(3) *Other information.* In addition to the information contained in the report and plan described in paragraph (d) (1) and (2) of this section, the Regional Administrator may require the owner or operator to submit any other information that the Regional Administrator finds to be reasonably necessary to determine whether an incinerator shall be approved.

NOTE: The Regional Administrator will have available for review and inspection an Agency manual containing information on sampling methods and analytical procedures for the parameters required in § 761.70(a)(3), (4), (6), and (7) plus any other parameters he may determine to be appropriate. Owners or operators are encouraged to review this manual prior to submitting any report required in § 761.70.

(4) *Contents of Approval.* (i) Except as provided in paragraph (d)(5) of this section, the Regional Administrator may not approve an incinerator for the disposal of PCB and PCB Items unless he finds that the incinerator meets all of the requirements of paragraphs (a) and/or (b) of this section.

(ii) In addition to the requirements of paragraphs (a) and/or (b) of this section, the Regional Administrator may include in an approval any other requirements that the Regional Administrator finds are necessary to ensure that operation of the incinerator does not present an unreasonable risk of injury to health or the environment from PCBs. Such requirements may include a fixed period of time for which the approval is valid.

(5) *Waivers.* An owner or operator of the incinerator may submit evidence to the Regional Administrator that operation of the incinerator will not present an unreasonable risk of injury to health or the environment from PCBs, when one or more of the requirements of paragraphs (a) and/or (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that any requirement of paragraphs (a) and (b) is not necessary to protect against such a risk, and may waive the requirements in any approval for that incinerator. Any finding and waiver under this paragraph must be stated in writing and included as part of the approval.

(6) *Persons approved.* An approval will designate the persons who own and who are authorized to operate the incinerator, and will apply only to such persons, except as provided in paragraph (d)(8) of this section.

(7) *Final approval.* Approval of an incinerator will be in writing and signed by the Regional Administrator. The approval will state all requirements applicable to the approved incinerator.

(8) *Transfer of property.* Any person who owns or operates an approved incinerator must notify EPA at least 30 days before transferring ownership in the incinerator or the property it stands upon, or transferring the right to operate the incinerator. The transferor must also submit to EPA, at least 30 days before such transfer, a notarized affidavit signed by the transferee which states that the transferee will abide by the transferor's EPA incinerator approval. Within 30 days of receiving such notification and affidavit, EPA will issue an amended approval substituting the transferee's name for the transferor's name, or EPA may require the transferee to apply for a new incinerator approval. In the latter case, the transferee must abide by the transferor's EPA approval until EPA issues the new approval to the transferee.

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

§ 761.75 Chemical waste landfills.

(a) *General.* A chemical waste landfill used for the disposal of PCBs and PCB Items shall be approved by the Agency Regional Administrator pursuant to paragraph (c) of this section. The landfill shall meet all of the requirements specified in paragraph (b) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (c)(4) of this section. In addition, the landfill shall meet any other requirements that may be prescribed pursuant to paragraph (c)(3) of this section.

(b) *Technical requirements.* Requirements for chemical waste landfills used for the disposal of PCBs and PCB Items are as follows:

(1) *Soils.* The landfill site shall be located in thick, relatively impermeable formations such as large-area clay pans. Where this is not possible, the soil shall have a high clay and silt content with the following parameters:

(i) In-place soil thickness, 4 feet or compacted soil liner thickness, 3 feet;

(ii) Permeability (cm/sec), equal to or less than 1×10^{-7};

(iii) Percent soil passing No. 200 Sieve, >30;

(iv) Liquid Limit, >30; and

(v) Plasticity Index >15.

(2) *Synthetic membrane liners.* Synthetic membrane liners shall be used when, in the judgment of the Regional Administrator, the hydrologic or geologic conditions at the landfill require such a liner in order to provide at least a permeability equivalent to the soils in paragraph (b)(1) of this section.Whenever a synthetic liner is used at a landfill site, special precautions shall be taken to insure that its integrity is maintained and that it is chemically compatible with PCBs. Adequate soil underlining and soil cover shall be provided to prevent excessive stress on the liner and to prevent rupture of the liner. The liner must have a minimum thickness of 30 mils.

(3) *Hydrologic conditions.* The bottom of the landfill shall be above the historical high groundwater table as provided below. Floodplains, shorelands, and groundwater recharge areas shall be avoided. There shall be no hy-

draulic connection between the site and standing or flowing surface water. The site shall have monitoring wells and leachate collection. The bottom of the landfill liner system or natural in-place soil barrier shall be at least fifty feet from the historical high water table.

(4) *Flood protection.* (i) If the landfill site is below the 100-year floodwater elevation, the operator shall provide surface water diversion dikes around the perimeter of the landfill site with a minimum height equal to two feet above the 100-year floodwater elevation.

(ii) If the landfill site is above the 100-year floodwater elevation, the operators shall provide diversion structures capable of diverting all of the surface water runoff from a 24-hour, 25-year storm.

(5) *Topography.* The landfill site shall be located in an area of low to moderate relief to minimize erosion and to help prevent landslides or slumping.

(6) *Monitoring systems*—(i) *Water sampling.* (A) For all sites receiving PCBs, the ground and surface water from the disposal site area shall be sampled prior to commencing operations under an approval provided in paragraph (c) of this section for use as baseline data.

(B) Any surface watercourse designated by the Regional Administrator using the authority provided in paragraph (c)(3)(ii) of this section shall be sampled at least monthly when the landfill is being used for disposal operations.

(C) Any surface watercourse designated by the Regional Administrator using the authority provided in paragraph (c)(3)(ii) of this section shall be sampled for a time period specified by the Regional Administrator on a frequency of no less than once every six months after final closure of the disposal area.

(ii) *Groundwater monitor wells.* (A) If underlying earth materials are homogenous, impermeable, and uniformly sloping in one direction, only three sampling points shall be necessary. These three points shall be equally spaced on a line through the center of the disposal area and extending from the area of highest water table elevation to the area of the lowest water table elevation on the property.

(B) All monitor wells shall be cased and the annular space between the monitor zone (zone of saturation) and the surface shall be completely backfilled with Portland cement or an equivalent material and plugged with Portland cement to effectively prevent percolation of surface water into the well bore. The well opening at the surface shall have a removable cap to provide access and to prevent entrance of rainfall or stormwater runoff. The well shall be pumped to remove the volume of liquid initially contained in the well before obtaining a sample for analysis. The discharge shall be treated to meet applicable State or Federal discharge standards or recycled to the chemical waste landfill.

(iii) *Water analysis.* As a minimum, all samples shall be analyzed for the following parameters, and all data and records of the sampling and analysis shall be maintained as required in § 761.80(d)(1). Sampling methods and analytical procedures for these parameters shall comply with those specified in 40 CFR Part 136 as amended in 41 FR 52779 on December 1, 1976.

(A) PCBs.

(B) pH.

(C) Specific conductance.

(D) Chlorinated organics.

(7) *Leachate collection.* A leachate collection monitoring system shall be installed above the chemical waste landfill. Leachate collection systems shall be monitored monthly for quantity and physicochemical characteristics of leachate produced. The leachate should be either treated to acceptable limits for discharge in accordance with a State or Federal permit or disposed of by another State or Federally approved method. Water analysis shall be conducted as provided in paragraph (b)(6)(iii) of this section. Acceptable leachate monitoring/collection systems shall be any of the following designs, unless a waiver is obtained pursuant to paragraph (c)(4) of this section.

(i) *Simple leachate collection.* This system consists of a gravity flow drainfield installed above the waste disposal facility liner. This design is recommended for use when semi-solid or leachable solid wastes are placed in a lined pit excavated into a relatively thick, unsaturated, homogenous layer of low permeability soil.

(ii) *Compound leachate collection.* This system consists of a gravity flow drainfield installed above the waste disposal facility liner and above a secondary installed liner. This design is recommended for use when semi-liquid or leachable solid wastes are placed in a lined pit excavated into relatively permeable soil.

(ii) *Suction lysimeters.* This system consists of a network of porous ceramic cups connected by hoses/tubing to a vacuum pump. The porous ceramic cups or suction lysimeters are installed along the sides and under the bottom of the waste disposal facility liner. This type of system works best when installed in a relatively permeable unsaturated soil immediately adjacent to the bottom and/or sides of the disposal facility.

(8) *Chemical waste landfill operations.* (i) PCBs and PCB Items shall be placed in a landfill in a manner that will prevent damage to containers or articles. Other wastes placed in the landfill that are not chemically compatible with PCBs and PCB Items including organic solvents shall be segregated from the PCBs throughout the waste handling and disposal process.

(ii) An operation plan shall be developed and submitted to the Regional Administrator for approval as required in paragraph (c) of this section. This plan shall include detailed explanations of the procedures to be used for recordkeeping, surface water handling procedures, excavation and backfilling, waste segregation burial coordinates, vehicle and equipment movement, use of roadways, leachate collection systems, sampling and monitoring procedures, monitoring wells, environmental emergency contingency plans, and security measures to protect against vandalism and unauthorized waste placements. EPA guidelines entitled "Thermal Processing and Land Disposal of Solid Waste" (39 FR 29337, Aug. 14, 1974) are a useful reference in preparation of this plan. If the facility is to be used to dispose of liquid wastes containing between 50 ppm and 500 ppm PCB, the operations plan must include procedures to determine that liquid PCBs to be disposed of at the landfill do not exceed 500 ppm PCB and meaures to prevent the migration of PCBs from the landfill. Bulk liquids not exceeding 500 ppm PCBs may be disposed of provided such waste is pretreated and/or stabilized (e.g., chemically fixed, evaporated, mixed with dry inert absorbant) to reduce its liquid content or increase its solid content so that a non-flowing consistency is achieved to eliminate the presence of free liquids prior to final disposal in a landfill. PCB Container of liquid PCBs with a concentration between 50 and 500 ppm PCB may be disposed of if each container is surrounded by an amount of inert sorbant material capable of absorbing all of the liquid contents of the container.

(iii) Ignitable wastes shall not be disposed of in chemical waste landfills. Liquid ignitable wastes are wastes that have a flash point less than 60 degrees C (140 degrees F) as determined by the following method or an equivalent method: Flash point of liquids shall be determined by a Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM Standard D-93, or the Setaflash Closed Tester using the protocol specified in ASTM Standard D-3278.

(iv) Records shall be maintained for all PCB disposal operations and shall include information on the PCB concentration in liquid wastes and the three dimensional burial coordinates for PCBs and PCB Items. Additional records shall be developed and maintained as required in § 761.80.

(9) *Supporting facilities.* (i) A six foot woven mesh fence, wall, or similar device shall be placed around the site to prevent unauthorized persons and animals from entering.

(ii) Roads shall be maintained to and within the site which are adequate to support the operation and maintenance of the site without causing safety or nuisance problems or hazardous conditions.

(iii) The site shall be operated and maintained in a manner to prevent safety problems or hazardous conditions resulting from spilled liquids and windblown materials.

(c) *Approval of chemical waste landfills.* Prior to the disposal of any PCBs and PCB Items in a chemical waste landfill, the owner or operator of the landfill shall receive written approval of the Agency Regional Administrator for the Region in which the landfill is located. The approval shall be obtained in the following manner:

(1) *Initial report.* The owner or operator shall submit to the Regional Administrator an initial report which contains:

(i) The location of the landfill;

(ii) A detailed description of the landfill including general site plans and design drawings;

(iii) An engineering report describing the manner is which the landfill complies with the requirements for chemical waste landfills specified in paragraph (b) of this section;

(iv) Sampling and monitoring equipment and facilities available;

(v) Expected waste volumes of PCBs;

(vi) General description of waste materials other than PCBs that are expected to be disposed of in the landfill;

(vii) Landfill operations plan as required in paragraph (b) of this section;

(viii) Any local, State, or Federal permits or approvals; and

(ix) Any schedules or plans for complying with the approval requirements of these regulations.

(2) *Other information.* In addition to the information contained in the report described in paragraph (c)(1) of this section, the Regional Administrator may require the owner or operator to submit any other information that the Regional Administrator finds to be reasonably necessary to determine whether a chemical waste landfill should be approved. Such other information shall be restricted to the types of information required in paragraph (c)(1) (i) through (ix) of this section.

(3) *Contents of approval.* (i) Except as provided in paragraph (c)(4) of this section the Regional Administrator may not approve a chemical waste landfill for the disposal of PCBs and PCB Items, unless he finds that the landfill meets all of the requirements of paragraph (b) of this section.

(ii) In addition to the requirements of paragraph (b) of this section, the Regional Administrator may include in an approval any other requirements or provisions that the Regional Administrator finds are necessary to ensure that operation of the chemical waste landfill does not present an unreasonable risk of injury to health or the environment from PCBs. Such provisions may include a fixed period of time for which the approval is valid.

The approval may also include a stipulation that the operator of the chemical waste landfill report to the Regional Administrator any instance when PCBs are detectable during monitoring activities conducted pursuant to paragraph (b)(6) of this section.

(4) *Waivers.* An owner or operator of a chemical waste landfill may submit evidence to the Regional Administrator that operation of the landfill will not present an unreasonable risk of injury to health or the environment from PCBs when one or more of the requirements of paragraph (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that one or more of the requirements of paragraph (b) of this section is not necessary to protect against such a risk and may waive the requirements in any approval for that landfill. Any finding and waiver under this paragraph will be stated in writing and included as part of the approval.

(5) *Persons approved.* Any approval will designate the persons who own and who are authorized to operate the chemical waste landfill, and will apply only to such persons, except as provided by paragraph (c)(7) of this section.

(6) *Final approval.* Approval of a chemical waste landfill will be in writing and will be signed by the Regional Administrator. The approval will state all requirements applicable to the approved landfill.

(7) *Transfer of property.* Any person who owns or operates an approved chemical waste landfill must notify EPA at least 30 days before transferring ownership in the property or transferring the right to conduct the chemical waste landfill operation. The transferor must also submit to EPA, at least 30 days before such transfer, a

notarized affidavit signed by the transferee which states that the transferee will abide by the transferor's EPA chemical waste landfill approval. Within 30 days of receiving such notification and affidavit, EPA will issue an amended approval substituting the transferee's name for the transferor's name, or EPA may require the transferee to apply for a new chemical waste landfill approval. In the latter case, the transferee must abide by the transferor's EPA approval until EPA issues the new approval to the transferee.

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

§ 761.79 Decontamination.

(a) Any PCB Container to be decontaminated shall be decontaminated by flushing the internal surfaces of the container three times with a solvent containing less than 50 ppm PCB. The solubility of PCBs in the solvent must be five percent or more by weight. Each rinse shall use a volume of the normal diluent equal to approximately ten (10) percent of the PCB Container capacity. The solvent may be reused for decontamination until it contains 50 ppm PCB. The solvent shall then be disposed of as a PCB in accordance with § 761.60(a). Non-liquid PCBs resulting from the decontamination procedures shall be disposed of in accordance with the provisions of § 761.60(a)(4).

(b) Movable equipment used in storage areas shall be decontaminated by swabbing surfaces that have contacted PCBs with a solvent meeting the criteria of paragraph (a) of this section.

NOTE: Precautionary measures should be taken to ensure that the solvent meets safety and health standards as required by applicable Federal regulations.

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

Subpart J—Records and Reports

§ 761.80 Records and monitoring.

(a) *PCBs and PCB Items in service or projected for disposal.* Beginning July 2, 1978, each owner or operator of a facility using or storing at one time at least 45 kilograms (99.4 pounds) of PCBs contained in PCB Container(s) or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors shall develop and maintain records on the disposition of PCBs and PCB Items. These records shall form the basis of an annual document prepared for each facility by July 1 covering the previous calendar year. Owners or operators with one or more facilities that use or store PCBs and PCB Items in the quantities described above may maintain the records and documents at one of the facilities that is normally occupied for 8 hours a day, provided the identity of this facility is available at each facility using or storing PCBs and PCB Items. The records and documents shall be maintained for at least five years after the facility ceases using or storing PCBs and PCB Items in the prescribed quantities. The following information for each facility shall be included in the annual document:

(1) The dates when PCBs and PCB Items are removed from service, are placed into storage for disposal, and are placed into transport for disposal. The quantities of the PCBs and PCB Items shall be indicated using the following breakdown:

(i) Total weight in kilograms of any PCBs and PCB Items in PCB Containers including the identification of container contents such as liquids and capacitors;

(ii) Total number of PCB Transformers and total weight in kilograms of any PCBs contained in the transformers; and

(iii) Total number of PCB Large High or Low Voltage Capacitors.

(2) For PCBs and PCB Items removed from service, the location of the initial disposal or storage facility and the name of the owner or operator of the facility.

(3) Total quantities of PCBs and PCB Items remaining in service at the end of the calendar year using the following breakdown:

(i) Total weight in kilograms of any PCBs and PCB Items in PCB Containers, including the identification of container contents such as liquids and capacitors;

(ii) Total number of PCB Transformers and total weight in kilograms of any PCBs contained in the transformers; and

(iii) Total number of PCB Large High or Low Voltage Capacitors.

(b) *Disposal and storage facilities.* Each owner or operator of a facility (including high efficiency boiler operations) used for the storage or disposal of PCBs and PCB Items shall by July 1, 1979 and each July 1 thereafter prepare and maintain a document that includes the information required in paragraph (b)(1) thru (4) of this section for PCBs and PCB Items that were handled at the facility during the previous calendar year. The document shall be retained at each facility for at least 5 years after the facility is no longer used for the storage or disposal of PCBs and PCB Items except that in the case of chemical waste landfills, the document shall be maintained at least 20 years after the chemical waste landfill is no longer used for the disposal of PCBs and PCB Items. The documents shall be available at the facility for inspection by authorized representatives of the Environmental Protection Agency. If the facility ceases to be used for PCB storage or disposal, the owner or operator of such facility shall notify within 60 days the EPA Regional Administrator of the region in which the facility is located that the facility has ceased storage or disposal operations. The notice shall specify where the documents that are required to be maintained by this paragraph are located. The following information shall be included in each document:

(1) The date when any PCBs and PCB Items were received by the facility during the previous calendar year for storage or disposal, and identification of the facility and the owner or operator of the facility from whom the PCBs were received;

(2) The date when any PCBs and PCB Items were disposed of at the disposal facility or transferred to another disposal or storage facility, including the identification of the specific types of PCBs and PCB Items that were stored or disposed of;

(3) A summary of the total weight in kilograms of PCBs and PCB Articles in containers and the total weight of PCBs contained in PCB Transformers, that have been handled at the facility during the previous calendar year. This summary shall provide totals of the above PCBs and PCB Items which have been:

(i) Received during the year;

(ii) Transferred to other facilities during the year; and

(iii) Retained at the facility at the end of the year. In addition the contents of PCB Containers shall be identified. When PCB Containers and PCBs contained in a transformer are transferred to other storage or disposal facilities, the identification of the facility to which such PCBs and PCB Items were transferred shall be included in the document.

(4) Total number of any PCB Articles or PCB Equipment not in PCB Containers, received during the calendar year, transferred to other storage or disposal facilities during the calendar year, or remaining on the facility site at the end of the calendar year. The identification of the specific types of PCB Articles and PCB Equipment received, transferred, or remaining on the facility site shall be indicated. When PCB Articles and PCB Equipment are transferred to other storage or disposal facilities, the identification of the facility to which the PCB Articles and PCB Equipment were transferred must be included.

NOTE: Any requirements for weights in kilograms of PCBs may be calculated values if the internal volume of containers and transformers is known and included in the reports, together with any assumptions on the density of the PCBs contained in the containers or transformers.

(c) *Incineration facilities.* Each owner or operator of a PCB incinerator facility shall collect and maintain for a period of 5 years from the date of collection the following information, in addition to the information required in paragraph (b) of this section:

(1) When PCBs are being incinerated, the following continuous and short-interval data:

(i) Rate and quantity of PCBs fed to the combustion system as required in § 761.70(a)(3);

(ii) Temperature of the combustion process as required in § 761.70(a)(4); and

(iii) Stack emission product to include O_2, CO, and CO_2 as required in § 761.70(a)(7).

(2) When PCBs are being incinerated, data and records on the monitoring of stack emissions as required in § 761.70(a)(6).

(3) Total weight in kilograms of any solid residues generated by the incineration of PCBs and PCB Items during the calendar year, the total weight in kilograms of any solid residues disposed of by the facility in chemical waste landfills, and the total weight in kilograms of any solid residues remaining on the facility site.

(4) When PCBs and PCB Items are being incinerated, additional periodic data shall be collected and maintained as specified by the Regional Administrator pursuant to § 761.70(d)(4).

(5) Upon any suspension of the operation of any incinerator pursuant to § 761.70(a)(8), the owner or operator of such an incinerator shall prepare a document. The document shall, at a minimum, include the date and time of the suspension and an explanation of the circumstances causing the suspension of operation. The document shall be sent to the appropriate Regional Administrator within 30 days of any such suspension.

(d) *Chemical waste landfill facilities.* Each owner or operator of a PCB chemical waste landfill facility shall collect and maintain until at least 20 years after the chemical waste landfill is no longer used for the disposal of PCBs the following information in addition to the information required in paragraph (b) of this section:

(1) Any water analysis obtained in compliance with § 761.75(b)(6)(iii); and

(2) Any operations records including burial coordinates of wastes obtained in compliance with § 761.75(b)(8)(ii).

(e) *High efficiency boiler facilities.* Each owner or operator of a high efficiency boiler used for the disposal of liquids between 50 and 500 ppm PCB shall collect and maintain for a period of 5 years the following information, in addition to the information required in paragraph (b) of this section:

(1) For each month PCBs are burned in the boiler the carbon monoxide and excess oxygen data required in § 761.60(a)(2)(iii)(A)(*8*) and § 761.60(a)(3)(iii)(A)(*8*);

(2) The quantity of PCBs burned each month as required in § 761.60(a)(2)(iii)(A)(*7*) and § 761.60(a)(3)(iii)(A)(*7*); and

(3) For each month PCBs (other than mineral oil dielectric fluid) are burned, chemical analysis data of the waste as required in § 761.60(a)(3)(iii)(B)(*6*).

(f) *Retention of special records by storage and disposal facilities.* In addition to the information required to be maintained under paragraphs (b), (c), (d) and (e) of this section, each owner or operator of a PCB storage or disposal facility (including high efficiency boiler operations) shall collect and maintain for the time period specified in paragraph (b) of this section the following data:

(1) All documents, correspondence, and data that have been provided to the owner or operator of the facility by any State or local government agency and that pertain to the storage or disposal of PCBs and PCB Items at the facility.

(2) All documents, correspondence, and data that have been provided by the owner or operator of the facility to any State or local government agency and that pertain to the storage or disposal of PCBs and PCB Items at the facility.

(3) Any applications and related correspondence sent by the owner or operator of the facility to any local, State, or Federal authorities in regard to waste water discharge permits, solid waste permits, building permits, or other permits or authorizations such as those required by §§ 761.70(d) and 761.41(c).

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

PART 762—FULLY HALOGENATED CHLOROFLUOROALKANES

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AUTHORITY: Toxic Substances Control Act, 15 U.S.C. 2605, 2607, and 2611.

SOURCE: 45 FR 43721, June 30, 1980, unless otherwise noted.

Subpart A—General Provisions

§ 762.1 Scope.

This part prohibits the manufacture, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes for those aerosol propellant uses which are subject to the Toxic Substances Control Act (TSCA), requires submission of annual reports, and lists the exemptions to the prohibitions.

§ 762.3 Definitions.

For the purposes of this part:

(a) The term "aerosol propellant" means a liquefied or compressed gas in a container where the purpose of the liquefied or compressed gas is to expel from the container liquid or solid material different from the aerosol propellant.

(b) The term "person" includes any natural person, corporation, firm, company, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political sub-division thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

(c) The term "nonconsumer article" means any article subject to TSCA which is not a "consumer product" within the meaning of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2052.

(d) The terms "Administrator," "chemical substance," "commerce," "distribute in commerce," "manufacture," "process," "processor," "State," and "United States" have the same meanings as in 15 U.S.C. 2602.

Subpart B—[Reserved]

Subpart C—Prohibitions, Exemptions, and Certification Requirements

§ 762.45 Manufacturing.

(a) After October 15, 1978, no person may manufacture, except to import, any fully halogenated chlorofluoroalkane for any aerosol propellant use except as follows:

(1) For use in an article which is a food, food additive, drug, cosmetic, or device exempted under 15 U.S.C. 2602; [1] or

(2) For those essential uses listed in § 762.58.

(3) For exempted uses listed in § 762.59.

(b) After December 15, 1978, no person may import into the customs territory of the United States any fully halogenated chlorofluoroalkane, whether as a chemical substance or as a component of a mixture or article, for any aerosol propellant use except as follows:

(1) For use in an article which is a food, food additive, drug, cosmetic, or device exempted under 15 U.S.C. 2602; or

(2) For those essential uses listed in § 762.58.

(3) For exempted uses listed in § 762.59.

(c) Every person manufacturing fully halogenated chlorofluoroalkanes for aerosol propellant uses after October 15, 1978, must obtain a signed statement from every person purchasing the fully halogenated chlorofluoroalkanes from him for any use. This statement must specify whether the fully halogenated chlorofluoroalkanes are being purchased: (1) For aerosol propellant uses permitted under either 40 CFR Part 762 or 21 CFR 2.125, or (2) for other uses.

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[1] The Food and Drug Administration has promulgated separate regulations on use of fully halogenated chlorofluoroalkanes in these articles at 21 CFR 2.125.

§ 762.50 Processing.

(a) After December 15, 1978, no person may process any fully halogenated chlorofluoroalkane into any aerosol propellant article except as follows:

(1) For use in an article which is a food, food additive, drug, cosmetic, or device exempted under 15 U.S.C. 2602; or

(2) For those essential uses listed in § 762.58.

(3) For exempted uses listed in § 762.59.

(b) After December 15, 1978, no person may process any fully halogenated chlorofluoroalkane into any aerosol propellant article intended for export except as follows:

(1) For use in an article which is a food, food additive, drug, cosmetic, or device exempted under 15 U.S.C. 2602; or

(2) For those essential uses listed in § 762.58.

(3) For exempted uses listed in § 762.59.

§ 762.55 Distribution in commerce.

After December 15, 1978, no person may distribute in commerce any fully halogenated chlorofluoroalkane for processing into any aerosol propellant article except as follows:

(a) For use in an article which is a food, food additive, drug, cosmetic, or device exempted under 15 U.S.C. 2602; or

(b) For those essential uses listed in § 762.58.

(c) For exempted uses listed in § 762.59.

§ 762.58 Essential use exemptions.

The following aerosol propellant uses of fully halogenated chlorofluoroalkanes are essential and exempt from §§ 762.45, 762.50 and 762.55:

(a) Mercaptan stench warning devices.

(b) Release agent for molds used in the production of plastic and elastomeric materials.

(c) Flying insect pesticides: (1) For use in nonresidential food handling areas, and (2) for space spraying of aircraft.

(d) Diamond-grit spray.

(e) Nonconsumer articles used as cleaner-solvents, lubricants, or coatings for electrical or electronic equipment.

(f) Articles necessary for safe maintenance and operation of aircraft.

(g) Uses essential to the military preparedness of the United States as determined by the Administrator and the Secretary of Defense.

(h) Pharmaceutical rotary tablet press punch lubricants.

(i) Automatic timed-release insecticide dispensing system for facilities in which tobacco is stored for three or more years, for use from May 18, 1981 to December 31, 1981.

(Sec. 6, 90 Stat. 2020; (15 U.S.C. 2605))

[45 FR 43721, June 30, 1980, as amended at 46 FR 27122, May 18, 1981; 47 FR 149, 150, Jan. 5, 1982]

§ 762.59 Special exemptions.

(a) Inkless fingerprinting systems until August 1, 1981.

(b) Exemption for producers of pyrethrin pesticide formulations.

(1) Producers of pyrethrin pesticide formulations are exempt from § 762.50 for the purpose of processing fully halogenated chlorofluoroalkane aerosol propellants into pyrethrin aerosol propellant articles (containers) if the containers were ordered before June 30, 1978. This exemption is conditional upon notifying EPA before the chlorofluoroalkanes are processed of:

(i) The number of aerosol propellant article containers to be filled,

(ii) The date the aerosol containers were ordered from a supplier,

(iii) Any serial numbers that can be used to identify these containers, and

(iv) The quantity of fully halogenated chlorofluoroalkanes needed to fill the containers.

(2) The information specified in paragraph (b)(1) of this section must be sent to the Pesticides and Toxic Substances Enforcement Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

(c) Effective June 1, 1982, Virginia Chemicals Inc. (VCI) may process chlorofluorocarbons (CFCs) for incorporation into its automatic timed-release insecticide dispensing A-System for use before December 31, 1982. This exemption is further limited by the following conditions:

(1) Sales shall be made only to VCI's 1981 A-System customers for use limited to those tobacco storage facilities where the A-System was employed in 1981.

(2) The total volume of CFCs which can be processed in 1982 for the A-System by VCI shall also be limited to the total volume processed for the A-System in 1981. The Agency may authorize the processing of a total volume of CFCs for the A-System in 1982 which exceeds by no more than twenty percent (20%) the total volume processed in 1981. The Director of the Pesticides and Toxic Substances Enforcement Division will authorize such an increase upon a finding that VCI has submitted data which substantiates that the 1982 insect infestation is substantially more severe and more lengthy than the 1981 infestation.

(3) The total volume of CFCs which may be processed for the A-System in 1982 is to be determined in the following manner.

(i) First, determine the total volume of CFCs processed for the A-System in 1981.

(ii) Second, determine the total volume of CFCs processed for the A-System which was in VCI's inventory on January 1, 1982, including the total volume of CFCs in canisters which have been returned to VCI for refilling.

(iii) Third, determine the volume of CFCs in A-System canisters which remain in the 1981 customers' inventories. This listing must be certified as accurate by each customer.

(iv) Fourth, subtract the combined amounts determined in (ii) and (iii) from the total volume of CFCs processed for the A-System in 1981, to determine the volume of CFCs which may be processed for A-System use in 1982.

(v) These calculations must be submitted to EPA's Pesticides and Toxic Substances Enforcement Division, prior to commencing any processing of CFCs for the A-System in 1982, and no later than one month after the effective date of this rule.

(4) By July 1, 1982, VCI shall submit to EPA's Pesticides and Toxic Substances Enforcement Division (PTSED) [EN-342], Mr. Ralph Turpin, Acting Chief, Case Development and Legal Branch, 401 M Street SW., Washington, D.C. 20460 (202-755-0899), the following information:

(i) The total volume of CFCs purchased by VCI in 1981, and from whom they were purchased.

(ii) The total volume of processed and unprocessed CFCs that VCI had in its inventory on January 1, 1981 and on January 1, 1982.

(iii) The total volume of CFCs processed for the A-System that VCI had in its inventory on January 1, 1981 and on January 1, 1982.

(iv) The total volume of CFCs that VCI's 1981 customers of the A-system had in their inventories on January 1, 1981 and on January 1, 1982.

(v) The total volume of CFCs processed for the A-System in 1981.

(vi) The total volume of CFCs sold in the A-System in 1981.

(vii) A list of the 1981 A-System customers.

(viii) The total volume of CFCs for the A-System which each customer was sold in 1981. This shall include the total number of A-System canisters sold to each customer and the total number of used canisters returned to VCI from each customer.

(5) By January 31, 1983, VCI shall submit to EPA's Pesticides and Toxic Substances Enforcement Division (PTSED) [EN-342], Mr. Ralph Turpin, Acting Chief, Case Development and Legal Branch, 401 M Street SW., Washington, D.C. 20460 (202-755-0899), the following information:

(i) The total volume of CFCs purchased by VCI in 1982, and from whom they were purchased.

(ii) The total volume of processed and unprocessed CFCs that VCI had in its inventory on January 1, 1983.

(iii) The total volume of CFCs processed for the A-System that VCI had in its inventory on January 1, 1983.

(iv) The total volume of CFCs that VCI's 1981 customers of the A-System had in their inventories on January 1, 1983.

(v) The total volume of CFCs processed for the A-System in 1982.

(vi) The total volume of CFCs sold in the A-System in 1982.

(vii) A list of 1982 A-System customers.

(viii) The total volume of CFCs for the A-System which each customer was sold in 1982. This shall include the total number of A-System canisters sold to each customer and the total number of used canisters returned to VCI from each customer.

(6) By July 1, 1982, VCI shall notify in writing its 1981 customers of the A-System that the CFC-propelled system will no longer be sold for use after December 31, 1982.

(Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065)

[45 FR 43721, June 30, 1980, as amended at 47 FR 23716, June 1, 1982]

Subpart D—Records and Reports

§ 762.60 General reporting requirements.

(a) Annual reports must be submitted by March 31, 1980, 1981, and 1982. The 1980 manufacturers report must cover manufacturing from October 16, 1978, through December 31, 1979. The 1980 processors report must cover processing from December 16, 1978, through December 31, 1979. Subsequent annual reports must provide information for the preceding calendar year.

(b) Annual reports must be submitted to the Pesticides and Toxic Substances Enforcement Division, Office of Enforcement (EN-342), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(c) Annual reports must be submitted by registered mail.

§ 762.65 Manufacturers of fully halogenated chlorofluoroalkanes for aerosol propellant uses.

(a) Every person who after October 15, 1978, manufactures fully halogenated chlorofluoroalkanes for aerosol propellant uses subject to the TSCA must submit an annual report.

(b) Every annual report submitted by a manufacturer must contain the following information and conform to the following format:

(1) Page one:

(i) Name of business,

(ii) Business address,

(iii) Chief executive officer,

(iv) Addresses of all facilities at which fully halogenated chlorofluoroalkanes are manufactured,

(v) Name, business address, and telephone number of individual most knowledgeable of the contents of this report. This report covers manufacture of fully halogenated chlorofluoroalkanes for aerosol propellant uses from (date to date).

(2) Page two (and subsequent pages if necessary):

Purchaser	Shipping addresses	Total quantity purchased (in pounds)	Quantity for aerosol propellant uses (in pounds)	Quantity for other uses (in pounds)
List name of customers who purchased for aerosol propellant uses..	(List)	(List)	(List)	(List)

State total quantity in pounds of fully halogenated chlorofluoroalkanes manufactured for all uses for the time period covered by this report.

(3) At the bottom of the last page make the following statement and certification:

I understand that I may assert a claim of business confidentiality by marking any part or all of this information as "TSCA Confidential Business Information" and that information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR Part 2. I further understand that if I do not mark this information as confidential, EPA may disclose it publicly without providing me notice of an opportunity to object. I certify that to the best of my knowledge the contents of this report are accurate and complete.

Date ——————————————

Signed ——————————————

Position Title ————————————

(4) The statement and certification required by paragraph (b)(3) of this section must be signed by the chief executive officer of the manufacturer.

§ 762.70 Processors of fully halogenated chlorofluoroalkanes for aerosol propellant uses.

(a) Every person who after December 15, 1978, processes fully halogenated chlorofluoroalkanes for aerosol propellant uses subject to the TSCA must submit an annual report. A separate report must be submitted for each processing facility.

(b) Every report submitted by a processor must contain the following information and conform to the following format:

(1) Page one:

(i) Name of business,

(ii) Business address,

(iii) Chief executive officer,

(iv) Facility address,

(v) Name, business address, and telephone number of individual most knowledgeable of the contents of this report. This report covers purchases and processing of fully halogenated chlorofluoroalkanes for aerosol propellant uses from (date to date).

(2) Page two (and subsequent pages if necessary):

Purchases of fully halogenated chlorofluoroalkanes:

Purchased from/Quantity purchased (in pounds)

(List names and business addresses)/(List).

Processing of fully halogenated chlorofluoroalkanes:

Use and Quantity (in pounds)

1. Mercaptan mine warning device (list).
2. Release agent.
3. Pesticides.
4. Diamond-grit spray.
5. Electrical/electronic.
6. Aviation.
7. Defense.
8. Food, food additives, drugs, cosmetics, and devices.
9. Other (explain).

(3) At the bottom of the last page make the following statement and certification:

I understand that I may assert a claim of business confidentiality by marking any part or all of this information as "TSCA Confidential Business Information" and that information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR Part 2. I further understand that if I do not mark this information as confidential, EPA may disclose it publicly without providing me notice of an opportunity to object. I certify that to the best of my knowledge the contents of this report are accurate and complete.

Date ————————————

Signed ————————————

Position Title ————————————

(4) The statement and certification required by paragraph (b)(3) of this section must be signed by the highest official at the processing facility for which the report is being submitted.

PART 763—ASBESTOS

Subparts A—E [Reserved]

Subpart F—Friable Asbestos-Containing Materials in Schools

Sec.
763.100 Scope and purpose.
763.103 Definitions.
763.105 Inspection for friable material.
763.107 Sampling friable material.
763.109 Analyzing friable material.
763.111 Warnings and notifications.
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763.119 References.
APPENDIX A—INTERIM METHODS FOR THE DETERMINATION OF ASBESTOS IN BULK INSULATION SAMPLES

AUTHORITY: Sec. 6 of the Toxic Substances Control Act, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605).

SOURCE: 47 FR 23369, May 27, 1982, unless otherwise noted.

Subparts A—E [Reserved]

Subpart F—Friable Asbestos-Containing Materials in Schools

§ 763.100 Scope and purpose.

(a) This rule requires local education agencies to identify friable asbestos-containing material in public and private schools by visually inspecting school buildings for friable materials, sampling such materials, and having samples analyzed by appropriate techniques referred to in the rule. In addition, the rule requires local education agencies to post a notice of the results of inspections and analyses. The rule requires local education agencies to provide warnings on the health effects of asbestos and instructions on methods to avoid or reduce exposure to school employees of any school with friable asbestos-containing material and to notify parent-teachers associations of the results of inspections. The rule also includes recordkeeping requirements. Local education agencies may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies are encouraged to consult with EPA Regional Asbestos Coordinators for assistance in complying with this rule.

(b) The addresses and telephone numbers of the EPA Regional Asbestos Coordinators are:

(1) EPA Region I

Asbestos Coordinator, Air and Hazardous Materials Division, JFK Federal Bldg., Boston, MA 02203 (617) 223-0585

(2) EPA Region II

Asbestos Coordinator, Room 1013, Woodbridge Avenue, Edison, NJ 08837 (201) 321-6668

(3) EPA Region III

Asbestos Coordinator, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106 (215) 597-9859, 597-8683

(4) EPA Region IV

Asbestos Coordinator, 345 Courtland Street, Atlanta, GA 30365 (404) 881-3864

(5) EPA Region V

Asbestos Coordinator, 230 S. Dearborn St., Chicago, IL 60604 (312) 886-6003

(6) EPA Region VI

Asbestos Coordinator, First Internat'l Bldg., 1201 Elm Street, Dallas, TX 75270 (214) 767-2734

(7) EPA Region VII

Asbestos Coordinator, 324 East 11 Street, Room 1500, Kansas City, MO 64106 (816) 374-6538

(8) EPA Region VIII

Asbestos Coordinator, 1860 Lincoln Street, Denver, CO 80295 (303) 837-3926

(9) EPA Region IX

Asbestos Coordinator, 215 Fremont Street, San Francisco, CA 94105 (415) 974-8123

(10) EPA Region X

Asbestos Coordinator, 1200 Sixth Avenue, Seattle, WA 98101 (206) 442-2888

§ 763.103 Definitions.

For the purposes of this part:

(a) "Act" means the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601, et seq.

(b) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

(c) "Asbestos-containing material" means any material which contains more than 1 percent asbestos by weight.

(d) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

(e) "Local education agency" means:

(1) Any local education agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854).

(2) The governing authority of any nonprofit elementary or secondary school, where the term "nonprofit" means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) "Sampling area" means any area, whether contiguous or not, within a school building which contains friable material that is homogeneous in texture and appearance.

(g) "School" means any public or private day or residential school that provides elementary or secondary education for grade 12 or under as determined under State law, or any school of any Agency of the United States.

(h) "School buildings" means:

(1) Structures used for the instruction of school children, including classrooms, laboratories, libraries, research facilities and administrative facilities.

(2) School eating facilities, and school kitchens.

(3) Gymnasiums or other facilities used for athletic or recreational activities, or for courses in physical education.

(4) Dormitories or other living areas of residential schools.

(5) Maintenance, storage, or utility facilities essential to the operation of the facilities described in paragraphs (h)(1) through (4) of this section.

(i) "Use of asbestos" means the presence of asbestos-containing material in school buildings.

§ 763.105 Inspection for friable material.

(a) Local education agencies shall inspect each school building which they lease, own, or otherwise use as a school building, to locate all friable material.

(b) This inspection shall consist of looking for and touching all suspect materials, including surfaces behind suspended ceilings or other non-permanent structures which may be entered during normal building maintenance or repairs. For further information on inspection procedures, officials should consult Chapter 4 of "Asbestos-Containing Materials in School Buildings: A Guidance Document," Part 1 (EPA no. C00090). Particular attention should be paid to the recommendation regarding respirators. Copies of the document can be obtained by calling 800-424-9065 (in Washington, D.C. call 554-1404).

§ 763.107 Sampling friable material.

(a) If friable materials are found in a school building, local education agencies shall identify each distinct sampling area of friable materials within the school building, take at least three samples from locations distributed throughout the sampling area, and label each sample container with a sample identification number unique to the sampling location and building.

(b) Officials should consult "Asbestos-Containing Materials in School Buildings: A Guidance Document," Part 1, Chapter 5, for further information on sampling procedures. The requirement that three samples be taken in each sampling area supersedes the recommendation made in the Guidance Document to take one sample per 5000 square feet of friable material.

(c) Sampling locations should be randomly distributed within the sampling; the locations should not be selected simply for convenience or ease of reaching the sample, or because the sampler judges the location to be representative. Samples shall be taken using small sealable containers; samples shall penetrate the depth of the friable material to the substrate.

§763.109 Analyzing friable material.

Local education agencies shall have all samples of friable material analyzed for asbestos using Polarized Light Microscopy (PLM), supplemented where necessary by X-ray Diffraction, in accordance with "Interim Method for the Determination of Asbestiform Minerals in Bulk Insulation Samples," which is found under appendix A of this Subpart. Persons interested in analyzing bulk samples for asbestos can obtain copies of the document by calling 800-424-9065 (in Washington, D.C., call 554-1404). A list of laboratories capable of conducting analyses of friable materials can be obtained by calling 800-334-8571, extension 6741. Officials should consult "Asbestos-Containing Materials in School Buildings: A Guidance Document," Part 1, Chapter 6, for further information on analysis of friable materials.

§ 763.111 Warnings and notifications.

(a) Local education agencies shall post in the primary administrative and custodial offices and in the faculty common rooms of each school under their authority a completed copy of the following Notice to School Employees unless no friable asbestos-containing material is present in the school. The notice shall remain posted indefinitely in any school which has friable asbestos-containing material.

NOTICE TO SCHOOL EMPLOYEES

In accordance with EPA regulations, this school has been inspected for friable (easily crumbled) materials which contain asbestos. Friable asbestos-containing material may cause health problems.

Friable asbestos-containing material is present in

____
(Name of School)

A record of the inspection, a diagram of the location(s) of friable asbestos-containing materials, and a copy of relevant EPA regulations are available in

Building	Room

For further information, interested persons should call 800-424-9065 (554-1404 in the Washington, DC area).

Signed:

____
(Name)

____
(Title)

____
Date

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(b) Local education agencies shall provide to all persons employed in school buildings under their authority which contain friable asbestos-containing materials a written notice of the location, by room or building area, of all friable asbestos-containing materials in the school.

(c) The following information on interim procedures to reduce exposures, "A Guide for Reducing Asbestos Exposure," shall be provided to all custodial or maintenance employees:

A GUIDE FOR REDUCING ASBESTOS EXPOSURE

PURPOSE

Your school building contains materials which contain asbestos and may release fibers into the air. Breathing asbestos fibers is dangerous. This fact sheet tells how to reduce exposure to asbestos fibers. Please read it carefully.

PROTECTING YOURSELF FROM ASBESTOS

Some of the friable building materials in your school contain asbestos. Friable asbestos-containing materials crumble easily and release fibers into the air. Breathing these fibers may cause cancer and other diseases. The more asbestos you breathe, the greater your chances are of getting disease. You can take precautions that will reduce or eliminate the risk of being exposed to asbestos.

Find out from your supervisor where these friable asbestos-containing materials are in your building. Do not touch or disturb them unless you have to. If you must handle an asbestos-containing material, first lightly spray it with water. (EPA recommends using water which contains wetting agents, if they are available.) Wet asbestos-containing materials will not release as many fibers.

Even if friable asbestos-containing materials are not disturbed, they may release asbestos fibers, which will fall slowly to the floor. If you are cleaning in areas which contain these materials, do not use a broom: it will stir the fibers into the air. Do not use a vacuum cleaner unless it is equipped with a High Efficiency Particulate Absolute filter. The fibers are so small they can pass through an ordinary vacuum cleaner and out into the room.

When cleaning in areas which contain friable asbestos-containing materials, use dampened mops and dustcloths. Dampened mops and dustcloths will hold the fibers much better than dry mops and dustcloths, and will reduce the number of fibers put back into the air. It is best to use mops with disposable heads and to throw away the mop head after use. Otherwise fibers will be released as the mop dries. Use either lightly dampened mops or cloths or a vacuum with a High Efficiency Particulate Absolute filter to clean areas where wet mopping cannot be used (such as carpeting or hardwood floors).

Clean tables and chairs in the area with damp cloths. Do not dust them with brushes or with dry cloths, and do not vacuum them.

After you use the mop heads and cloths, put them in a plastic bag while they are still wet. Dislodged materials should also be placed in plastic bags for disposal.

A LIST OF IMPORTANT POINTS TO REMEMBER

1. Do not handle or disturb friable asbestos containing materials unless necessary.

2. If you must handle asbestos-containing materials, wet them first.

3. If you must disturb asbestos (for example, to repair a light), see your supervisor before starting work. Then;

    a. Place a plastic dropcloth below the work area.

    b. Spray asbestos-containing material with water before you disturb it.

    c. Make sure that only those persons who are necessary for the job are in the area.

    d. Put all the asbestos you remove into a heavy plastic bag. Seal the bag and discard it.

    e. After the job, clean all the ladders and tools you used with a wet cloth.

    f. Roll up the dropcloth carefully and put it in a plastic bag. Discard the bag.

    g. Clean the floor below the work area with a wet mop.

    h. Put the mop head and the cloth used to clean the ladders in a plastic bag while they are still wet, seal the bag, and discard it.

4. If you must disturb or remove large sections of asbestos-containing material, see your supervisor before you begin. The National Institute for Occupational Safety and Health recommends that a respirator approved for toxic dusts be worn during such work.

You should make arrangements to turn off the school's ventilation system if you are disturbing or removing large sections of asbestos-containing material. The ventilation system should remain off until the work is completed and the area has been cleaned.

EPA Form 7730-2 (6-82)

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(d) Local education agencies shall provide notice of the results of inspections and analyses in each school in which friable asbestos materials are found to the appropriate parent-teacher association of that school. If there is no parent-teacher association for the school, the local education agency shall notify directly the parents of its pupils.

§ 763.114 Recordkeeping.

(a) Local education agencies shall compile and maintain in the administrative office of each school under their authority a record which shall include:

(1) The name and address of the school.

(2) A list of all school buildings associated with the school, indicating whether each building has been inspected for friable materials in compliance with § 763.105, and which buildings contain friable materials.

(3) Copies of the Notice to School Employees, found in § 763.111(a).

(4) For each school building which contains friable materials:

(i) A blueprint, diagram, or written description of the building which identifies clearly the location(s) and approximate area(s) in square feet of each sampling area of such material(s), the locations at which samples were taken, and the identification number of each sample, and which shows or describes clearly whether each sampling area of friable material contains asbestos, including an estimate of its percent asbestos content as determined by calculating the average of the percent asbestos contents of all samples taken in that area.

(ii) A copy of all laboratory reports and all correspondence with laboratories concerning the analysis of samples taken in accordance with § 763.107.

(5) If the school contains friable asbestos-containing materials, copies of the "Guide for Reducing Asbestos Exposure" contained in § 763.111(b), and one copy of "Asbestos-Containing Materials in School Buildings: A Guidance Document," Parts 1 and 2 (EPA No. C00090), which can be obtained by calling 800-424-9065.

(6) A statement that the requirements of the rule have been satisfied signed by the person responsible for compliance with the rule and including the date and the person's name and title.

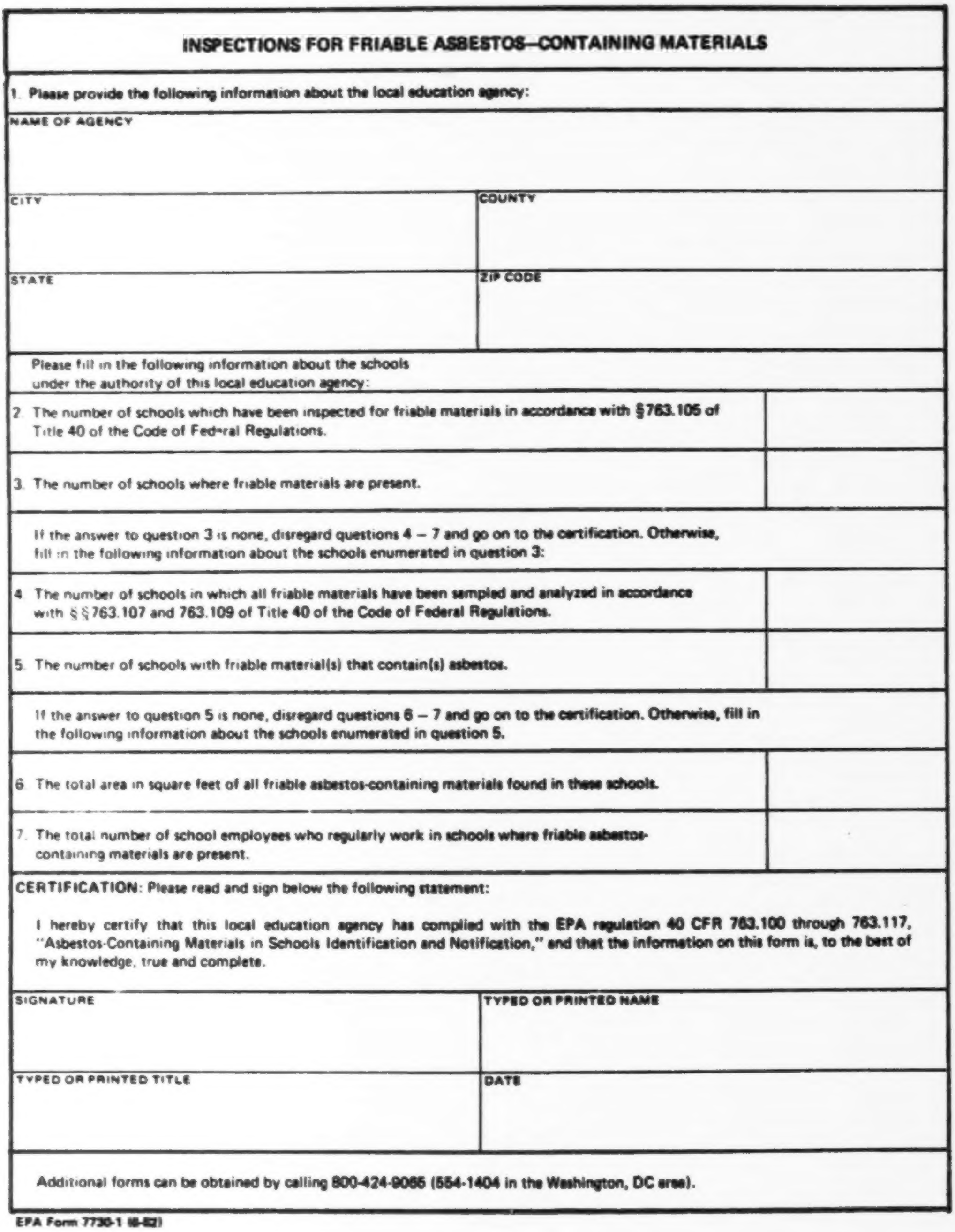
(b) Each local education agency shall retain in the administrative office of the agency:

(1) A list of all schools under its authority, indicating whether schools were inspected in accordance with § 763.105, and which schools contain friable materials.

(2) A record of the friable materials in schools which were sampled and analyzed in accordance with §§ 763.107 and 763.109, indicating which materials contain asbestos.

(3) For each school which contains friable asbestos-containing materials, the total area of such materials in square feet, and the total number of school employees who regularly work in the school.

(c) *Form.* Each local education agency shall complete and retain in the administrative office of the local education agency the following form "Inspections for Friable Asbestos-Containing Materials."



INSPECTIONS FOR FRIABLE ASBESTOS-CONTAINING MATERIALS

1. Please provide the following information about the local education agency:

NAME OF AGENCY	
CITY	COUNTY
STATE	ZIP CODE

Please fill in the following information about the schools under the authority of this local education agency:

2. The number of schools which have been inspected for friable materials in accordance with §763.105 of Title 40 of the Code of Federal Regulations.	
3. The number of schools where friable materials are present.	

If the answer to question 3 is none, disregard questions 4 – 7 and go on to the certification. Otherwise, fill in the following information about the schools enumerated in question 3:

4. The number of schools in which all friable materials have been sampled and analyzed in accordance with §§763.107 and 763.109 of Title 40 of the Code of Federal Regulations.	
5. The number of schools with friable material(s) that contain(s) asbestos.	

If the answer to question 5 is none, disregard questions 6 – 7 and go on to the certification. Otherwise, fill in the following information about the schools enumerated in question 5.

6. The total area in square feet of all friable asbestos-containing materials found in these schools.	
7. The total number of school employees who regularly work in schools where friable asbestos-containing materials are present.	

CERTIFICATION: Please read and sign below the following statement:

I hereby certify that this local education agency has complied with the EPA regulation 40 CFR 763.100 through 763.117, "Asbestos-Containing Materials in Schools Identification and Notification," and that the information on this form is, to the best of my knowledge, true and complete.

SIGNATURE	TYPED OR PRINTED NAME
TYPED OR PRINTED TITLE	DATE

Additional forms can be obtained by calling 800-424-9065 (554-1404 in the Washington, DC area).

EPA Form 7730-1 (6-82)

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§ 763.115 Compliance.

(a) Local education agencies shall comply with all parts of this regulation by May 27, 1983. Local education agencies that have already conducted detection activities should consult § 763.117 *Exemptions.*

(b) Actions undertaken by municipal or State officials on behalf of local education agencies as a part of a municipal or State school asbestos program shall constitute compliance with this regulation to the extent that such actions conform to the requirements of this regulation.

(c) Section 15(1) of TSCA (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under section 6 of TSCA (15 U.S.C. 2605). Thus, failure to comply with any aspect of this rule constitutes a violation as defined by section 15(1) of TSCA.

(d) Section 16(a) of TSCA (15 U.S.C. 2615) provides that any person who violates any provision of section 15 shall be liable to the United States for civil penalties. If a violation is knowing or willful, criminal penalties may also be assessed. Under section 17 of TSCA (15 U.S.C. 2616), the Agency may take injunctive action to restrain persons from violating a rule promulgated under section 6 of TSCA.

§ 763.117 Exemptions.

(a) *Schools that were inspected, sampled, and analyzed prior to this rule.* (1) Schools are exempt from §§ 763.105, 763.107, and 763.109, if, prior to the effective date of this rule, local education agencies, or municipal or State agencies, acting on their behalf, have:

(i) Visually inspected all areas of the school for friable materials.

(ii) Sampled each type of friable material found in the school, as distinguished by different appearance or texture.

(iii) Had the sample(s) analyzed using Polarized Light Microscopy supplemented by X-ray Diffraction where necessary, or by Electron Microscopy.

This exemption for previous sampling activity does not apply to school buildings where it was determined that a friable material does not contain asbestos based on fewer than three samples of the material.

(2) If a school was found to contain friable asbestos-containing materials, then §§ 763.111, 763.114 and 763.115, the recordkeeping and notification requirements, shall apply to the local education agencies.

(3) If a school was found to contain *no* friable asbestos-containing materials, the school also is exempt from §§ 763.111, 763.114, and 763.115, the recordkeeping and notification requirements, provided the school retains a copy of all laboratory reports and all correspondence with laboratories concerning the analyses of samples taken and maintains in the school record the following certifying statement, signed and dated by the person responsible for compliance with the rule: "I hereby certify that this school, to the best of my knowledge, does not contain friable asbestos-containing materials."

(b) *Schools which can document that no friable asbestos-containing building materials were used in construction, modification, or renovation.* A school is exempt from §§ 763.105, 763.107, and 763.109, the inspection, sampling, and analysis requirements, and §§ 763.111, 763.114, and 763.115, the recordkeeping and notification requirements, if:

(1) the school record contains documentation showing that, at the time of construction, modification, or renovation, no friable asbestos/containing building materials were used. To qualify for this exemption, documentation must clearly show that the friable materials used did not contain asbestos.

(2) the school record contains the following certifying statement, signed and dated by the person responsible for compliance with the rule: "I hereby certify that this school, to the best of my knowledge, does not contain friable asbestos-containing materials."

(c) *Other exemptions.* (1) Sections 763.105, 763.107, and 763.109 shall not apply to a school in which the record contains a signed statement certifying that any friable materials in the school shall be treated for purposes of this rule as asbestos-containing. In this case, the record shall also include information on the location of these materials.

(2) No provision of this subpart applies to any school if:

(i) The local education agency has conducted abatement programs that result in the elimination of all friable asbestos materials from the school either by removal or encapsulation of the materials.

(ii) No part of the school building was built before January 1979.

§ 763.119 References.

(a) *General.* The following reference contains detailed information on sampling and analysis of friable materials and provides a background on which this part is based. Copies may be obtained from the Document Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-106, 401 M Street SW, Washington, D.C. 20460.

(1) USEPA. 1979. "Asbestos-Containing Materials in School Buildings: A Guidance Document" Part 1. (EPA no. C00090).

APPENDIX A—INTERIM METHOD OF THE DETERMINATION OF ASBESTOS IN BULK INSULATION SAMPLES

Section 1, Polarized Light Microscopy

1.1 Principle and Applicability

Bulk samples of building materials taken for asbestos identification are first examined for homogeneity and preliminary fiber identification at low magnification. Positive identification of suspect fibers is made by analysis of subsamples with the polarized light microscope.

The principles of optical mineralogy are well established.[1 2] A light microscope equipped with two polarizing filters is used to observe specific optical characteristics of a sample. The use of plane polarized light allows the determination of refractive indices along specific crystallographic axes. Morphology and color are also observed. A retardation plate is placed in the polarized light path for determination of the sign of elongation using orthoscopic illumination. Orientation of the two filters such that their vibration planes are perpendicular (crossed polars) allows observation of the birefringence and extinction characteristics of anisotropic particles.

Quantitative analysis involves the use of point counting. Point counting is a standard technique in petrography for determining the relative areas occupied by separate minerals in thin sections of rock. Background information on the use of point counting[2] and the interpretation of point count data[3] is available.

This method is applicable to all bulk samples of friable insulation materials submitted for identification and quantitation of asbestos components.

1.2 Range

The point counting method may be used for analysis of samples containing from 0 to 100 percent asbestos. The upper detection limit is 100 percent. The lower detection limit is less than 1 percent.

1.3 Interferences

Fibrous organic and inorganic constituents of bulk samples may interfere with the identification and quantitation of the asbestos mineral content. Spray-on binder materials may coat fibers and affect color or obscure optical characteristics to the extent of masking fiber identity. Fine particles of other materials may also adhere to fibers to an extent sufficient to cause confusion in identification. Procedures that may be used for the removal of interferences are presented in Section 1.7.2.2.

1.4 Precision and Accuracy

Adequate data for measuring the accuracy and precision of the method for samples with various matrices are not currently available. Data obtained for samples containing a single asbestos type in a simple matrix are available in the EPA report *Bulk Sample Analysis for Asbestos Content: Evaluation of the Tentative Method.*[4]

1.5 Apparatus

1.5.1 *Sample Analysis*

A low-power binocular microscope, preferably stereoscopic, is used to examine the bulk insulation sample as received.

- *Microscope:* binocular, 10-45X (approximate).
- *Light Source:* incandescent or fluorescent.
- *Forceps, Dissecting Needles, and Probes*
- *Glassine Paper or Clean Glass Plate*

Compound microscope requirements: A polarized light microscope complete with polarizer, analyzer, port for wave retardation plate, 360° graduated rotating stage, substage condenser, lamp, and lamp iris.

- *Polarized Light Microscope:* described above.
- *Objective Lenses:* 10X, 20X, and 40X or near equivalent.

- *Dispersion Staining Objective Lens* (optional)
- *Ocular Lens:* 10X minimum.
- *Eyepiece Reticle:* cross hair or 25 point Chalkley Point Array.
- *Compensator Plate:* 550 millimicron retardation.

1.5.2 *Sample Preparation*

Sample preparation apparatus requirements will depend upon the type of insulation sample under consideration. Various physical and/or chemical means may be employed for an adequate sample assessment.

- *Ventilated Hood* or negative pressure glove box.
- *Microscope Slides*
- *Coverslips*
- *Mortar and Pestle:* agate or porcelain. (optional)
- *Wylie Mill* (optional)
- *Beakers and Assorted Glassware* (optional)
- *Certrifuge* (optional)
- *Filtration apparatus* (optional)
- *Low temperature asher* (optional)

1.6 Reagents

1.6.1 *Sample Preparation*

- *Distilled Water (optional)*
- *Dilute CH_3COOH:* ACS reagent grade (optional)
- *Dilute HCl:* ACS reagent grade (optional)
- *Sodium metaphosphate* $(NaPO_3)_6$ (optional)

1.6.2 *Analytical Reagents*

Refractive Index Liquids: 1.490-1.570, 1.590-1.720 in increments of 0.002 or 0.004.

- *Refractive Index Liquids for Dispersion Staining:* high-dispersion series, 1.550, 1.605, 1.630 (optional).
- *UICC Asbestos Reference Sample Set:* Available from: UICC MRC Pneumoconiosis Unit, Llandough Hospital, Penarth, Glamorgan CF6 1XW, UK, and commercial distributors.
- *Tremolite-asbestos* (source to be determined)
- *Actinolite-asbestos* (source to be determined)

1.7 Procedures

NOTE.—Exposure to airborne asbestos fibers is a health hazard. Bulk samples submitted for analysis are usually friable and may release fibers during handling or matrix reduction steps. All sample and slide preparations should be carried out in a ventilated hood or glove box with continuous airflow (negative pressure). Handling of samples without these precautions may result in exposure of the analyst and contamination of samples by airborne fibers.

1.7.1 *Sampling*

Samples for analysis of asbestos content shall be taken in the manner prescribed in Reference 5 and information on design of sampling and analysis programs may be found in Reference 6. If there are any questions about the representative nature of the sample, another sample should be requested before proceeding with the analysis.

1.7.2 *Analysis*

1.7.2.1 *Gross Examination*

Bulk samples of building materials taken for the identification and quantitation of asbestos are first examined for homogeneity at low magnification with the aid of a stereomicroscope. The core sample may be examined in its container or carefully removed from the container onto a glassine transfer paper or clean glass plate. If possible, note is made of the top and bottom orientation. When discrete strata are identified, each is treated as a separate material so that fibers are first identified and quantified in that layer only, and then the results for each layer are combined to yield an estimate of asbestos content for the whole sample.

1.7.2.2 Sample Preparation

Bulk materials submitted for asbestos analysis involve a wide variety of matrix materials. Representative subsamples may not be readily obtainable by simple means in heterogeneous materials, and various steps may be required to alleviate the difficulties encountered. In most cases, however, the best preparation is made by using forceps to sample at several places from the bulk material. Forcep samples are immersed in a refractive index liquid on a microscope slide, teased apart, covered with a cover glass, and observed with the polarized light microscope.

Alternatively, attempts may be made to homogenize the sample or eliminate interferences before further characterization. The selection of appropriate procedures is dependent upon the samples encountered and personal preference. The following are presented as possible sample preparation steps.

A mortar and pestle can sometimes be used in the size reduction of soft or loosely bound materials though this may cause matting of some samples. Such samples may be reduced in a Wylie mill. Apparatus should be clean and extreme care exercised to avoid cross-contamination of samples. Periodic checks of the particle sizes should be made during the grinding operation so as to preserve any fiber bundles present in an identifiable form. These procedures are not recommended for samples that contain amphibole minerals or vermiculite. Grinding of amphiboles may result in the separation of fiber bundles or the production of cleavage fragments with aspect ratios greater than 3:1. Grinding of vermiculite may also produce fragments with aspect ratios greater than 3:1.

Acid treatment may occasionally be required to eliminate interferences. Calcium carbonate, gypsum, and bassanite (plaster) are frequently present in sprayed or trowelled insulations. These materials may be removed by treatment with warm dilute acetic acid. Warm dilute hydrochloric acid may also be used to remove the above materials. If acid treatment is required, wash the sample at least twice with distilled water, being careful not to lose the particulates during decanting steps. Centrifugation or filtration of the suspension will prevent significant fiber loss. The pore size of the filter should be 0.45 micron or less. Caution: prolonged acid contact with the sample may alter the optical characteristics of chrysotile fibers and should be avoided.

Coatings and binding materials adhering to fiber surfaces may also be removed by treatment with sodium metaphosphate.[7] Add 10 mL of 10g/L sodium metaphosphate solution to a small (0.1 to 0.5 mL) sample of bulk material in a 15-mL glass centrifuge tube. For approximately 15 seconds each, stir the mixture on a vortex mixer, place in an ultrasonic bath and then shake by hand. Repeat the series. Collect the dispersed solids by centrifugation at 1000 rpm for 5 minutes. Wash the sample three times by suspending in 10 mL distilled water and recentrifuging. After washing, resuspend the pellet in 5 mL distilled water, place a drop of the suspension on a microscope slide, and dry the slide at 110° C.

In samples with a large portion of cellulosic or other organic fibers, it may be useful to ash part of the sample and view the residue. Ashing should be performed in a low temperature asher. Ashing may also be performed in a muffle furnace at temperatures of 500° C or lower. Temperatures of 550° C or higher will cause dehydroxylation of the asbestos minerals, resulting in changes of the refractive index and other key parameters. If a muffle furnace is to be used, the furnace thermostat should be checked and calibrated to ensure that samples will not be heated at temperatures greater than 550° C.

Ashing and acid treatment of samples should not be used as standard procedures. In order to monitor possible changes in fiber characteristics, the material should be viewed microscopically before and after any sample preparation procedure. Use of these procedures on samples to be used for quantitation requires a correction for percent weight loss.

1.7.2.3 Fiber Identification

Positive identification of asbestos requires the determination of the following optical properties.

- Morphology
- Color and pleochroism
- Refractive indices
- Birefringence
- Extinction characteristics
- Sign of elongation

Table 1-1 lists the above properties for commercial asbestos fibers. Figure 1-1 presents a flow diagram of the examination procedure. Natural variations in the conditions under which deposits of asbestiform minerals are formed will occasionally produce exceptions to the published values and differences from the UICC standards. The sign of elongation is determined by use of the compensator plate and crossed polars. Refractive indices may be determined by the Becke line test. Alternatively, dispersion staining may be used. Inexperienced operators may find that the dispersion staining technique is more easily learned, and should consult Reference 9 for guidance. Central stop dispersion staining colors are presented in Table 1-2. Available high-dispersion (HD) liquids should be used.

TABLE 1-1. OPTICAL PROPERTIES OF ASBESTOS FIBERS

Mineral	Morphology, color[a]	Refractive indices[b]		Birefringence	Extinction	Sign of elongation
		α	γ			
Chrysotile (asbestiform serpentine)	Wavy fibers. Fiber bundles have splayed ends and "kinks". Aspect ratio typically >10:1. Colorless[c], nonpleochroic.	1.493-1.560	1.517-1.562[f] (normally 1.556)	.008	‖ to fiber length	+ (length slow)
Amosite (asbestiform grunerite)	Straight, rigid fibers. Aspect ratio typically >10:1. Colorless to brown, nonpleochroic or weakly so. Opaque inclusions may be present.	1.635-1.696	1.655-1.729[f] (normally 1.696-1.710)	.020-.033	‖ to fiber length	+ (length slow)
Crocidolite (asbestiform riebeckite)	Straight, rigid fibers. Thick fibers and bundles common, blue to purple-blue in color. Pleochroic. Birefringence is generally masked by blue color.	1.654-1.701	1.668-1.717[e] (normally close to 1.700)	.014-.016	‖ to fiber length	- (length fast)
Anthophyllite-asbestos	Straight fibers and acicular cleavage fragments.[d] Some composite fibers. Aspect ratio <10:1. Colorless to light brown.	1.596-1.652	1.615-1.676[f]	.019-.024	‖ to fiber length	+ (length slow)
Tremolite-actinolite-asbestos	Normally present as acicular or prismatic cleavage fragments[d]. Single crystals predominate, aspect ratio <10:1. Colorless to pale green.	1.599-1.668	1.622-1.688[f]	.023-.020	Oblique extinction, 10-20° for fragments. Composite fibers show ‖ extinction.	+ (length slow)

[a] From reference 5; colors cited are seen by observation with plane polarized light.

[b] From references 5 and 8.

[c] Fibers subjected to heating may be brownish.

[d] Fibers defined as having aspect ratio >3:1.

[e] ⊥ to fiber length.

[f] ‖ to fiber length.

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Polarized light microscopy analysis: For each type of material identified by examination of sample at low magnification. Mount spacially dispersed sample in 1.550 RI liquid. (If using dispersion staining, mount in 1.550 HD.) View at 100X with both plane polarized light and crossed polars. More than one fiber type may be present.

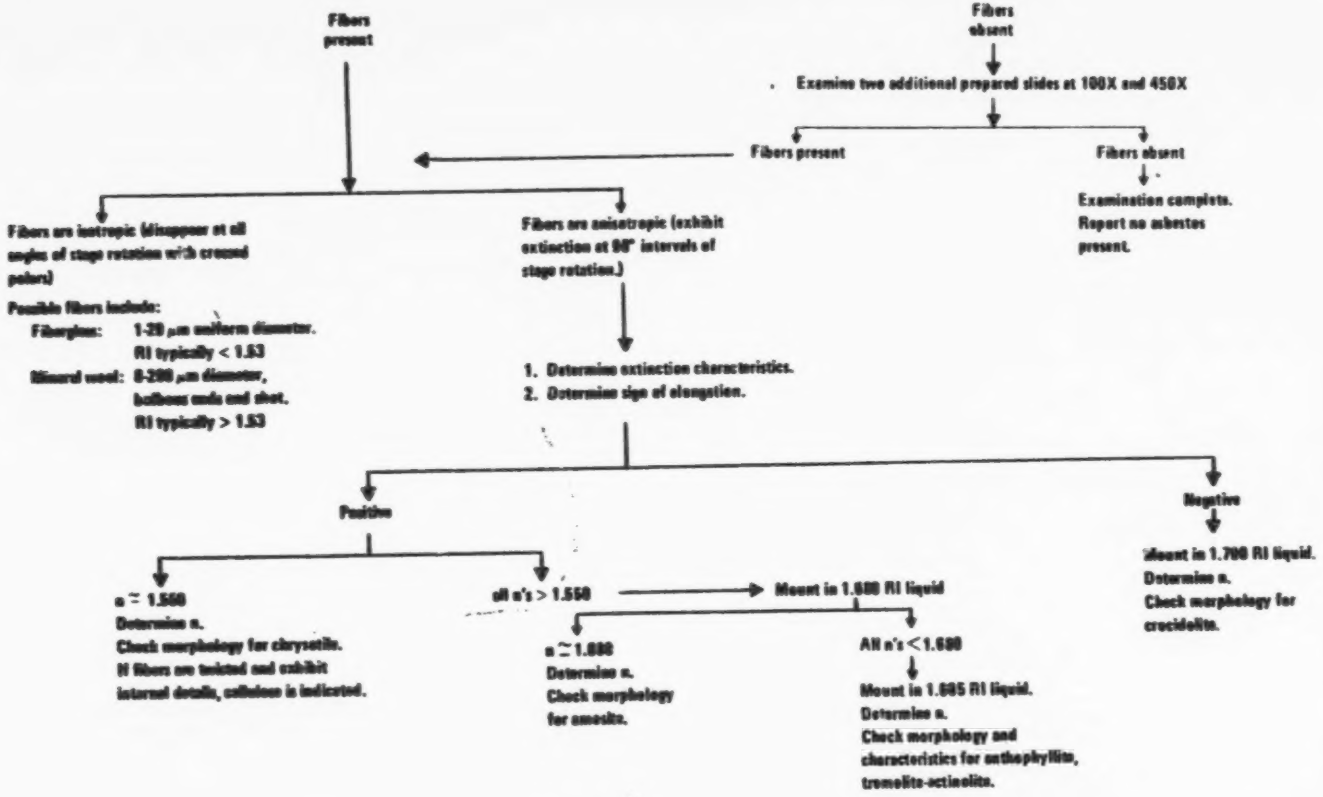
Fibers present
Fibers absent
Examine two additional prepared slides at 100X and 450X
Fibers present
Fibers absent
Examination complete. Report no asbestos present.
Fibers are isotropic (disappear at all angles of stage rotation with crossed polars)
Possible fibers include:
Fiberglass: 1-20 μm uniform diameter. RI typically < 1.53
Mineral wool: 8-200 μm diameter, bulbous ends and shot. RI typically > 1.53
Fibers are anisotropic (exhibit extinction at 90° intervals of stage rotation.)
1. Determine extinction characteristics.
2. Determine sign of elongation.
Positive
Negative
Mount in 1.700 RI liquid. Determine n. Check morphology for crocidolite.
n ≃ 1.550 Determine n. Check morphology for chrysotile. If fibers are twisted and exhibit internal details, cellulose is indicated.
all n's > 1.550
Mount in 1.680 RI liquid
n ≃ 1.680 Determine n. Check morphology for amosite.
All n's < 1.680
Mount in 1.605 RI liquid. Determine n. Check morphology and characteristics for anthophyllite, tremolite-actinolite.

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Figure 1-1. Flow chart for analysis of bulk samples by polarized light microscopy.

TABLE 1-2. CENTRAL STOP DISPERSION STAINING COLORS[a]

Mineral	RI Liquid	$\eta \perp$	$\eta \parallel$
Chrysotile	1.550^{HD}	Blue	Blue-magenta
Amosite	1.680	Blue-magenta to pale blue	Golden-yellow
	1.550^{HD}	Yellow to white	Yellow to white
Crocidolite[b]	1.700	Red magenta	Blue-magenta
	1.550^{HD}	Yellow to white	Yellow to white
Anthophyllite	1.605^{HD}	Blue	Gold to gold-magenta
Tremolite	1.605^{HD}[c]	Pale blue	Yellow
Actinolite	1.605^{HD}	Gold-magenta to blue	Gold
	1.630^{HD}[c]	Magenta	Golden-yellow

[a] From reference 9.

[b] Blue absorption color.

[c] Oblique extinction view.

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1.7.2.4 Quantitation of Asbestos Content

Asbestos quantitation is performed by a point-counting procedure. An ocular reticle (cross-hair or point array) is used to visually superimpose a point or points on the microscope field of view. Record the number of points positioned directly above each kind of particle or fiber of interest. Score only points directly over asbestos fibers or nonasbestos matrix material. Do not score empty points for the closest particle. If an asbestos fiber and a matrix particle overlap so that a point is superimposed on their visual intersection, a point is scored for both categories. Point counting provides a determination of the area percent asbestos. Reliable conversion of area percent to percent of dry weight is not currently feasible unless the specific gravities and relative volumes of the materials are known.

For the purpose of this method, "asbestos fibers" are defined as having an aspect ratio greater than 3:1 and being positively identified as one of the minerals in Table 1-1.

A total of 400 points superimposed on either asbestos fibers or nonasbestos matrix material must be counted over at least eight different preparations of representative subsamples. Take eight forcep samples and mount each separately with the appropriate refractive index liquid. The preparation should not be heavily loaded. The sample should be uniformly dispersed to avoid overlapping particles and allow 25-50 percent empty area within the fields of view. Count 50 nonempty points on each preparation, using either

- A cross-hair reticle and mechanical stage; or
- A reticle with 25 points (Chalkley Point Array) and counting at least 2 randomly selected fields.

For samples with mixtures of isotropic and anisotropic materials present, viewing the sample with slightly uncrossed polars or the addition of the compensator plate to the polarized light path will allow simultaneous discrimination of both particle types. Quantitation should be performed at 100X or at the lowest magnification of the polarized light microscope that can effectively distinguish the sample components. Confirmation of the quantitation result by a second analyst on some percentage of analyzed samples should be used as standard quality control procedure.

The percent asbestos is calculated as follows:

% asbestos=(a/n) 100%

where

a=number of asbestos counts,
n=number of nonempty points counted (400).

If a=0, report "No asbestos detected." If $0<a<3$, report "<1% asbestos.

The value reported should be rounded to the nearest percent.

1.8 References

1. Paul F. Kerr, *Optical Mineralogy*, 4th ed., New York, McGraw-Hill, 1977.

2. E. M. Chamot and C. W. Mason, *Handbook of Chemical Microscopy, Volume One*, 3rd ed., New York: John Wiley & Sons, 1958.

3. F. Chayes, *Petrographic Modal Analysis: An Elementary Statistical Appraisal*, New York: John Wiley & Sons, 1956.

4. E. P. Brantly, Jr., K. W. Gold, L. E. Myers, and D. E. Lentzen, *Bulk Sample Analysis for Asbestos Content: Evaluation of the Tentative Method*, U.S. Environmental Protection Agency, October 1981.

5. U.S. Environmental Protection Agency, *Asbestos-Containing Materials in School Buildings: A Guidance Document*, Parts 1 and 2, EPA/OTS No. C00090, March 1979.

6. D. Lucas, T. Hartwell, and A. V. Rao, *Asbestos-Containing Materials in School Buildings: Guidance for Asbestos Analytical Programs*, EPA 560/13-80-017A, U.S. Environmental Protection Agency, December 1980, 96 pp.

7. D. H. Taylor and J. S. Bloom, Hexametaphosphate pretreatment of insulation samples for identification of fibrous constituents, *Microscope, 28*, 1980.

8. W. J. Campbell, R. L. Blake, L. L. Brown, E. E. Cather, and J. J. Sjoberg. *Selected Silicate Minerals and Their Asbestiform Varieties: Mineralogical Definitions and Identification-Characterization*, U.S. Bureau of Mines Information Circular 8751, 1977.

9. Walter C. McCrone, *Asbestos Particle Atlas*, Ann Arbor: Ann Arbor Science Publishers, June 1980.

SECTION 2, X-RAY POWDER DIFFRACTION

2.1 Principle and Applicability

The principle of X-ray powder diffraction (XRD) analysis is well established.[1 2] Any solid, crystalline material will diffract an impingent beam of parallel, monochromatic X-rays whenever Bragg's Law,

$\lambda = 2d \sin \theta$,

is satisfied for a particular set of planes in the crystal lattice, where

λ = the X-ray wavelength, Å;
d = the interplanar spacing of the set of reflecting lattice planes, Å; and
θ = the angle of incidence between the X-ray beam and the reflecting lattice planes.

By appropriate orientation of a sample relative to the incident X-ray beam, a diffraction pattern can be generated that, in most cases, will be uniquely characteristic of both the chemical composition and structure of the crystalline phases present.

Unlike optical methods of analysis, however, XRD cannot determine crystal morphology. Therefore, in asbestos analysis, XRD does not distinguish between fibrous and nonfibrous forms of the serpentine and amphibole minerals (Table 2-1). However, when used in conjunction with optical methods such as polarized light microscopy (PLM), XRD techniques can provide a reliable analytical method for the identification and characterization of asbestiform minerals in bulk materials.

For *qualitative analysis* by XRD methods, samples are initially scanned over limited diagnostic peak regions for the serpentine (~7.4 Å) and amphibole (8.2-8.5 Å) minerals (Table 2-2). Standard slow-scanning methods for bulk sample analysis may be used for materials shown by PLM to contain significant amounts of asbestos (>5-10 percent). Detection of minor or trace amounts of asbestos may require special sample preparation and step-scanning analysis. All samples that exhibit diffraction peaks in the diagnostic regions for asbestiform minerals are submitted to a full (5°-60° 2θ; 1° 2θ/min) qualitative XRD scan, and their diffraction patterns are compared with standard reference powder diffraction patterns[3] to verify initial peak assignments and to identify possible matrix interferences when subsequent quantitative analysis will be performed.

TABLE 2-1—THE ASBESTOS MINERALS AND THEIR NONASBESTIFORM ANALOGS

Asbestiform	Nonasbestiform
SERPENTINE	
Chrysotile	Antigorite, lizardite
AMPHIBOLE	
Anthophyllite asbestos	Anthophyllite
Cummingtonite-grunerite asbestos ("Amosite")	Cummingtonite-grunerite
Crocidolite	Riebeckite
Tremolite asbestos	Tremolite
Actinolite asbestos	Actinolite

TABLE 2-2—PRINCIPAL LATTICE SPACINGS OF ASBESTIFORM MINERALS[a]

Minerals	Principal d-spacings (Å) and relative intensities			JCPDS Powder diffraction file[3] number
Chrysotile	7.37_{100}	3.65_{70}	4.57_{50}	21-543[b]
	7.36_{100}	3.66_{80}	2.45_{65}	25-645
	7.10_{100}	2.33_{80}	3.55_{70}	22-1162 (theoretical)
"Amosite"	8.33_{100}	3.06_{70}	2.756_{70}	17-745 (nonfibrous)
	8.22_{100}	3.060_{85}	3.25_{70}	27-1170 (UICC)
Anthophyllite	3.05_{100}	3.24_{60}	8.26_{55}	9-455
	3.06_{100}	8.33_{70}	3.23_{50}	16-401 (synthetic)
Anthophyllite	2.72_{100}	2.54_{100}	3.480_{80}	25-157
Crocidolite	8.35_{100}	3.10_{55}	2.720_{35}	27-1415 (UICC)
Tremolite	8.38_{100}	3.12_{100}	2.705_{90}	13-437[b]
	2.706_{100}	3.14_{95}	8.43_{40}	20-1310[b] (synthetic)
	3.13_{100}	2.706_{60}	8.44_{40}	23-666 (synthetic mixture with richterite)

[a] This information is intended as a guide, only. Complete powder diffraction data, including mineral type and source, should be referred to, to ensure comparability of sample and reference materials where possible. Additional precision XRD data on amosite, crocidolite, tremolite, and chrysotile are available from the U.S. Bureaus of Mines.[4]

[b] Fibrosity questionable.

Accurate *quantitative analysis* of asbestos in bulk samples by XRD is critically dependent on particle size distribution, crystallite size, preferred orientation and matrix absorption effects, and comparability of standard reference and sample materials. The most intense diffraction peak that has been shown to be free from interference by prior qualitative XRD analysis is selected for quantitation of each asbestiform mineral. A "thin-layer" method of analysis[5 6] is recommended in which, subsequent to comminution of the bulk material to ~10 μm by suitable cryogenic milling techniques, an accurately known amount of the sample is deposited on a silver membrane filter. The mass of asbestiform material is determined by measuring the integrated area of the selected diffraction peak using a step-scanning mode, correcting for matrix absorption effects, and comparing with suitable calibration standards. Alternative "thick-layer" or bulk methods,[7 8] may be used for *semiquantitative analysis*.

This XRD method is applicable as a confirmatory method for identification and quantitation of asbestos in bulk material samples that have undergone prior analysis by PLM or other optical methods.

2.2 Range and Sensitivity

The range of the method has not been determined.

The sensitivity of the method has not been determined. It will be variable and dependent upon many factors, including matrix effects (absoprtion and interferences), diagnostic reflections selected, and their relative intensities.

2.3 Limitations

2.3.1 *Interferences*

Since the fibrous and nonfibrous forms of the serpentine and amphibole minerals (Table 2-1) are indistinguishable by XRD techniques unless special sample preparation techniques and instrumentation are used.[9] the presence of nonasbestiform serpentines and amphiboles in a sample will pose severe interference problems in the identification and quantitative analysis of their asbestiform analogs.

The use of **XRD** for identification and quantitation of asbestiform minerals in bulk samples may also be limited by the presence of other interfering materials in the sample. For naturally occurring materials the commonly associated asbestos-related mineral interferences can usually be anticipated. However, for fabricated materials the nature of the interferences may vary greatly (Table 2-3) and present more serious problems in identification and quantitation.[10] Potential interferences are summarized in Table 2-4 and include the following:

- *Chlorite* has major peaks at 7.19 Å and 3.58 A That interfere with both the primary (7.36 A) and secondary (3.66 Å) peaks for chrysotile. Resolution of the primary peak to give good quantitative results may be possible when a step-scanning mode of operation is employed.
- *Halloysite* has a peak at 3.63 Å that interferes with the secondary (3.66 Å) peak for chrysotile.
- *Kaolinite* has a major peak at 7.15 Å that may interfere with the primary peak of chrysotile at 7.36 Å when present at concentrations of >10 percent. However, the secondary chrysotile peak at 3.66 Å may be used for quantitation.
- *Gypsum* has a major peak at 7.5 Å that overlaps the 7.36 Å peak of chrysotile when present as a major sample constituent. This may be removed by careful washing with distilled water, or be heating to 300° C to convert gypsum to plaster of paris.
- *Cellulose* has a broad peak that partially overlaps the secondary (3.66 Å) chrysotile peak.[9]
- Overlap of major diagnostic peaks of the amphibole asbestos minerals, amosite, anthophyllite, crocidolite, and tremolite, at approximately 8.3 Å and 3.1 Å causes mutual interference when these minerals occur in the presence of one another. In some instances, adquate resolution may be attained by using step-scanning methods and/or by decreasing the collimator slit width at the X-ray port.

TABLE 2-3—COMMON CONSTITUENTS IN INSULATION AND WALL MATERIALS

A. Insulation materials

Chrysotile
"Amosite"
Crocidolite
*Rock wool
*Slag wool
*Fiber glass
Gypsum (CaSO$_4$ · 2H$_2$O)
Vermiculite (micas)
*Perlite
Clays (kaolin)
*Wood pulp
*Paper fibers (talc, clay, carbonate fillers)
Calcium silicates (synthetic)
Opaques (chromite, magnetite inclusions in serpentine)
Hematite (inclusions in "amosite")
Magnesite
*Diatomaceous earth

B. Spray finishes or paints

Bassanite
Carbonate minerals (calcite, dolomite, vaterite)
Talc
Tremolite
Anthophyllite
Serpentine (including chrysotile)
Amosite
Crocidolite
*Mineral wool
*Rock wool
*Slag wool
*Fiber glass
Clays (kaolin)
Micas
Chlorite
Gypsum (CaSO$_4$ · 2H$_2$O)
Quartz
*Organic binders and thickeners
Hyrdomagnesite
Wollastonite
Opaques (chromite, magnetite inclusions in serpentine)
Hematite (inclusions in "amosite")

*Amorphous materials——contribute only to overall scattered radiation and increased background radiation.

TABLE 2-4—INTERFERENCES IN XRD ANALYSIS ASBESTIFORM MINERALS

Asbestiform mineral	Primary diagnostic peaks (approximate d-spacings, in Å)	Interference
Serpentine		
Chrysotile	7.4	Nonasbestiform serpentines (antigorite, lizardite) Chlorite Kaolinite Gypsum
	3.7	Chlorite Halloysite Cellulose
Amphibole		
"Amosite" Anthophyllite Crocidolite Tremolite	3.1	Nonasbestiform amphiboles (cummingtonite-grunerite, anthophyllite, riebeckite, tremolite) Mutual interferences Carbonates Talc
	8.3	Mutual interferences

- *Carbonates* may also interfere with quantitative analysis of the amphibole asbestos minerals, amosite, anthophyllite, crocidolite, and tremolite. Calcium carbonate ($CaCO_3$) has a peak at 3.035 Å that overlaps major amphibole peaks at approximately 3.1 Å when present in concentrations of >5 percent. Removal of carbonates with a dilute acid wash is possible; however, if present, chrysotile may be partially dissolved by this treatment.[11]
- A major *talc* peak at 3.12 Å interferes with the primary tremolite peak at this same position and with secondary peaks of crocidolite (3.10 Å), amosite (3.06 Å), and anthophyllite (3.05 Å). In the presence of talc, the major diagnostic peak at approximately 8.3 Å should be used for quantitation of these asbestiform minerals.

The problem of intraspecies and matrix interferences is further aggravated by the variability of the silicate mineral powder diffraction patterns themselves, which often makes definitive identification of the asbestos minerals by comparison with standard reference diffraction patterns difficult. This variability results from alterations in the crystal lattice associated with differences in isomorphous substitution and degree of crystallinity. This is especially true for the amphiboles. These minerals exhibit a wide variety of very similar chemical compositions, with the result being that their diffraction patterns are chracterized by having major (110) reflections of the monoclinic amphiboles and (210) reflections of the orthorhombic anthophyllite separated by less than 0.2 Å.[12]

2.3.2 *Matrix Effects*

If a copper X-ray source is used, the presence of iron at high concentrations in a sample will result in significant X-ray fluorescence, leading to loss of peak intensity along with increased background intensity and an overall decrease in sensitivity. This situation may be corrected by choosing an X-ray source other than copper; however, this is often accompanied both by loss of intensity and by decreased resolution of closely spaced reflections. Alternatively, use of a diffracted beam monochromator will reduce background fluorescent raditation, enabling weaker diffraction peaks to be detected.

X-ray absorption by the sample matrix will result in overall attenuation of the diffracted beam and may seriously interfere with quantitative analysis. Absorption effects may be minimized by using sufficiently "thin" samples for analysis.[5,13,14] However, unless absorption effects are known to be the same for both samples and standards, appropriate corrections should be made by referencing diagnostic peak areas to an internal standard[7,8] or filter substrate (Ag) peak.[5,6]

2.3.3 *Particle Size Dependence*

Because the intensity of diffracted X-radiation is particle-size dependent, it is essential for accurate quantitative analysis that both sample and standard reference materials have similar particle size distributions. The optimum particle size range for quantitative analysis of asbestos by XRD has been reported to be 1 to 10 μm.[15] Comparability of sample and standard reference material particle size distributions should be verified by optical microscopy (or another suitable method) prior to analysis.

2.3.4 *Preferred Orientation Effects*

Preferred orientation of asbestiform minerals during sample preparation often poses a serious problem in quantitative analysis by XRD. A number of techniques have been developed for reducing preferred orientation effects in "thick layer" samples.[7,8,15] However, for "thin" samples on membrane filters, the preferred orientation effects seem to be both reproducible and favorable to enhancement of the principal diagnostic reflections of asbestos minerals, actually increasing the overall sensitivity of the method.[12,14] (Further investigation into preferred orientation effects in both thin layer and bulk samples is required.)

2.3.5 *Lack of Suitably Characterized Standard Materials*

The problem of obtaining and characterizing suitable reference materials for asbestos analysis is clearly recognized. NIOSH has recently directed a major research effort toward the preparation and characterization of analytical reference materials, including asbestos standards;[16 17] however, these are not available in large quantities for routine analysis.

In addition, the problem of ensuring the comparability of standard reference and sample materials, particularly regarding crystallite size, particle size distribution, and degree of crystallinity, has yet to be adequately addressed. For example, Langer et al.[18] have observed that in insulating matrices, chrysotile tends to break open into bundles more frequently than amphiboles. This results in a line-broadening effect with a resultant decrease in sensitivity. Unless this effect is the same for both standard and sample materials, the amount of chrysotile in the sample will be underestimated by XRD analysis. To minimize this problem, it is recommended that standardized matrix reduction procedures be used for both sample and standard materials.

2.4 Precision and Accuracy

Precision of the method has not been determined.

Accuracy of the method has not been determined.

2.5 Apparatus

2.5.1 *Sample Preparation*

Sample preparation apparatus requirements will depend upon the sample type under consideration and the kind of XRD analysis to be performed.

- *Mortar and Pestle:* Agate or porcelain.
- *Razor Blades*
- *Sample Mill:* SPEX, Inc., freezer mill or equivalent.
- *Bulk Sample Holders*
- *Silver Membrane Filters:* 25-mm diameter, 0.45-μm pore size. Selas Corp. of America, Flotronics Div., 1957 Pioneer Road, Huntington Valley, PA 19006.
- *Microscope Slides*
- *Vacuum Filtration Apparatus:* Gelman No. 1107 or equivalent, and side-arm vacuum flask.
- *Microbalance*
- *Ultrasonic Bath or Probe:* Model W140, Ultrasonics, Inc., operated at a power density of approximately 0.1 W/mL, or equivalent.
- *Volumetric Flasks:* 1-L volume.
- *Assorted Pipettes*
- *Pipette Bulb*
- *Nonserrated Forceps*
- *Polyethylene Wash Bottle*
- *Pyrex Beakers:* 50-mL volume.
- *Desiccator*
- *Filter Storage Cassettes*
- *Magnetic Stirring Plate and Bars*
- *Porcelain Crucibles*
- *Muffle Furnace or Low Temperature Asher*

2.5.2 *Sample Analysis*

Sample analysis requirements include an X-ray diffraction unit, equipped with:

- *Constant Potential Generator; Voltage and mA Stabilizers*
- *Automated Diffractometer with Step-Scanning Mode*
- *Copper Target X-Ray Tube:* High intensity, fine focus, preferably.
- *X-Ray Pulse Height Selector*
- *X-Ray Detector* (with high voltage power supply): Scintillation or proportional counter.
- *Focusing Graphite Crystal Monochromator;* or *Nickel Filter* (if copper source is used, and iron fluorescence is not a serious problem).
- *Data Output Accessories:*
  - *Strip Chart Recorder*
  - *Decade Scaler/Timer*
  - *Digital Printer*
- *Sample Spinner* (optional).
- *Instrument Calibration Reference Specimen:* α-quartz reference crystal (Arkansas quartz standard, #180-147-00, Philips Electronics Instruments, Inc., 85 McKee Drive, Mahwah, NJ 07430) or equivalent.

2.6 Reagents

2.6.1 *Standard Reference Materials*

The reference materials listed below are intended to serve as a guide. Every attempt should be made to acquire pure reference materials that are comparable to sample materials being analyzed.

- *Chrysotile:* UICC Canadian, or NIEHS Plastibest. (UICC reference materials available from: UICC, MRC Pneumoconiosis Unit, Llandough Hospital, Penarth, Glamorgan, CF61XW, UK).
- *Crocidolite:* UICC
- *Amosite:* UICC
- *Anthophyllite:* UICC
- *Tremolite Asbestos:* Wards Natural Science Establishment, Rochester, N.Y.; Cyprus Research Standard, Cyprus Research, 2435 Military Ave., Los Angeles, CA 90064 (washed with dilute HCl to remove small amount of calcite impurity); India tremolite, Rajasthan State, India.
- *Actinolite Asbestos*

2.6.2 *Adhesive*

Tape, petroleum jelly, etc. (for attaching silver membrane filters to sample holders).

2.6.3 *Surfactant*

1 percent aerosol OT aqueous solution or equivalent.

2.6.4 *Isopropanol*

ACS Reagent Grade.

2.7 Procedure

2.7.1 *Sampling*

Samples for analysis of asbestos content shall be collected as specified in EPA Guidance Document #C0090, *Asbestos-Containing Materials in School Buildings.*[10]

2.7.2 *Analysis*

All samples must be analyzed initially for asbestos content by PLM. XRD should be used as an auxiliary method when a second, independent analysis is requested.

NOTE.—Asbestos is a toxic substance. All handling of dry materials should be performed in an operating fume hood.

2.7.2.1 Sample Preparation

The method of sample preparation required for XRD analysis will depend on: (1) the condition of the sample received (sample size, homogeneity, particle size distribution, and overall composition as determined by PLM); and (2) the type of XRD analysis to be performed (qualitative, quantitative, thin layer or bulk).

Bulk materials are usually received as inhomogeneous mixtures of complex composition with very wide particle size distributions. Preparation of a homogeneous, representative sample from asbestos-containing materials is particularly difficult because the fibrous nature of the asbestos minerals inhibits mechanical mixing and stirring, and because milling procedures may cause adverse lattice alterations.

A discussion of specific matrix reduction procedures is given below. Complete methods of sample preparation are detailed in Sections 2.7.2.2 and 2.7.2.3.

NOTE.—*All samples should be examined microscopically before and after each matrix reduction step* to monitor changes in sample particle size, composition, and crystallinity, and to ensure sample representativeness and homogeneity for analysis.

2.7.2.1.1 *Milling*—Mechanical milling of asbestos materials has been shown to decrease fiber crystallinity, with a resultant decrease in diffraction intensity of the specimen; the degree of lattice alteration is related to the duration and type of milling process.[19-22] Therefore, all milling times should be kept to a minimum.

For *qualitative analysis*, particle size is not usually of critical importance and initial characterization of the material with a minimum of matrix reduction is often desirable to document the composition of the sample as received. Bulk samples of very large particle size (>2-3 mm) should be comminuted to ~100 μm. A mortar and pestle can sometimes be used in size reduction of soft or loosely bound materials though this may cause matting of some samples. Such samples may be reduced by cutting with a razor blade in a mortar, or by grinding in a suitable mill (e.g., a microhammer mill or equivalent). When using a mortar for grinding or cutting, the sample should be moistened with ethanol, or some other suitable wetting agent, to minimize exposures.

For accurate, reproducible *quantitative analysis*, the particle size of both sample and standard materials should be reduced to ~10 μm (see Section 2.3.3). Dry ball milling at liquid nitrogen temperatures (e.g., Spex Freezer Mill, or equivalent) for a maximum time of 10 min. is recommended to obtain satisfactory particle size distributions while protecting the integrity of the crystal lattice.[5] Bulk samples of very large particle size may require grinding in two stages for full matrix reduction to <10 μm.[8, 16]

Final particle size distributions should always be verified by optical microscopy or another suitable method.

2.7.2.1.2 *Low temperature ashing*—For materials shown by PLM to contain large amounts of gypsum, cellulosic, or other organic materials, it may be desirable to ash the samples prior to analysis to reduce background radiation or matrix interference. Since chrysotile undergoes dehydroxylation at temperatures between 550° C and and 650° C, with subsequent transformation to forsterite,[23 24] ashing temperatures should be kept below 500° C. Use of a low temperature asher is recommended. In all cases, calibration of the oven is essential to ensure that a maximum ashing temperature of 500° C is not exceeded.

2.7.2.1.3 *Acid leaching*—Because of the interference caused by gypsum and some carbonates in the detection of asbestiform minerals by XRD (see Section 2.3.1), it may be necessary to remove these interferents by a simple acid leaching procedure prior to analysis (see Section 1.7.2.2).

2.7.2.2 Qualitative Analysis

2.7.2.2.1 *Initial screening of bulk material*—Qualitative analysis should be performed on a representative, homogeneous portion of the sample with a minimum of sample treatment.

1. Grind and mix the sample with a mortar and pestle (or equivalent method, see Section 2.7.2.1.1.) to a final particle size sufficiently small (~100 μm) to allow adequate packing into the sample holder.

2. Pack the sample into a standard bulk sample holder. Care should be taken to ensure that a representative portion of the

milled sample is selected for analysis. Paticular care should be taken to avoid possible size segregation of the sample. (Note: Use of a back-packing method [25] of bulk sample preparation may reduce preferred orientation effects.)

3. Mount the sample on the diffractometer and scan over the diagnostic peak regions for the serpentine (~67.4 Å) and amphibole (8.2-8.5 Å) minerals (see Table 2-2). The X-ray diffraction equipment should be optimized for intensity. A slow scanning speed of 1° 2θ/min is recommended for adequate resolution. Use of a sample spinner is recommended.

4. Submit all samples that exhibit diffraction peaks in the diagnostic regions for asbestiform minerals to a full qualitative XRD scan (5°-60° 2θ; 1°2θ/min) to verify initial peak assignments and to identify potential matrix interferences when subsequent quantitative analysis is to be perform.

5. Compare the sample XRD pattern with standard reference powder diffraction patterns (i.e., JCPDS powder diffraction data [3] or those of other well-characterized reference materials). Principal lattice spacings of asbestiform minerals are given in Table 2-2; common constituents of bulk insulation and wall materials are listed in Table 2-3.

2.7.2.2.2 *Detection of minor or trace constituents*—Routine screening of bulk materials by XRD may fail to detect small concentrations (<5 percent) of asbestos. The limits of detection will, in general, be improved if matrix absorption effects are minimized, and if the sample particle size is reduced to the optimal 1 to 10 μm range, provided that the crystal lattice is not degraded in the milling process. Therefore, in those instances where confirmation of the presence of an asbestiform mineral at very low levels is required, or where a negative result from initial screening of the bulk material by XRD (see Section 2.7.2.2.1) is in conflict with previous PLM results, it may be desirable to prepare the sample as described for quantitative analysis (see Section 2.7.2.3) and step-scan over appropriate 2θ ranges of selected diagnostic peaks (Table 2-2). Accurate transfer of the sample to the silver membrane filter is not necessary unless subsequent quantitative analysis is to be performed.

2.7.2.3 Quantitative Analysis

The proposed method for quantitation of asbestos in bulk samples is a modification of the NIOSH-recommended thin-layer method for chrysotile in air.[6] A thick-layer or bulk method involving pelletizing the sample may be used for semiquantitative analysis; [7,8] however, this method requires the addition of an internal standard, use of a specially fabricated sample press, and relatively large amounts of standard reference materials. Additional research is required to evaluate the comparability of thin- and thick-layer methods for quantitative asbestos analysis.

For quantitative analysis by thin-layer methods, the following procedure is recommended:

1. Mill and size all or a substantial representative portion of the sample as outlined in Section 2.7.2.1.1.

2. Dry at 100° C for 2 hr; cool in a desiccator.

3. Weigh accurately to the nearest 0.01 mg.

4. Samples shown by PLM to contain large amounts of cellulosic or other organic materials, gypsum, or carbonates, should be submitted to appropriate matrix reduction procedures described in Sections 2.7.2.1.2 and 2.7.2.1.3. After ashing and/or acid treatment, repeat the drying and weighing procedures described above, and determine the percent weight loss; L.

5. Quantitatively transfer an accurately weighed amount (50-100 mg) of the sample to a 1-L volumetric flask with approximately 200 mL isopropanol to which 3 to 4 drops of surfactant have been added.

6. Ultrasonicate for 10 min at a power density of approximately 0.1 W/mL, to disperse the sample material.

7. Dilute to volume with isopropanol.

8. Place flask on a magnetic stirring plate. Stir.

9. Place a silver membrane filter on the filtration apparatus, apply a vacuum, and attach the reservoir. Release the vacuum and add several milliliters of isopropanol to the reservoir. Vigorously hand shake the asbestos suspension and immediately withdraw an aliquot from the center of the suspension so that total sample weight, W_T, on the filter will be approximately 1 mg. Do not adjust the volume in the pipet by expelling part of the suspension; if more than the desired aliquot is withdrawn, discard the aliquot and resume the procedure with a clean pipet. Transfer the aliquot to the reservoir. Filter rapidly under vacuum. Do not wash the reservoir walls. Leave the filter apparatus under vacuum until dry. Remove the reservoir, release the vacuum, and remove the filter with forceps. (Note: Water-soluble matrix interferences such as gypsum may be removed at this time by careful washing of the filtrate with distilled water. Extreme care should be taken not to disturb the sample.)

10. Attach the filter to a flat holder with a suitable adhesive and place on the diffractometer. Use of a sample spinner is recommended.

11. For each asbestos mineral to be quantitated select a reflection (or reflections) that has been shown to be free from interferences by prior PLM or qualitative XRD analysis and that can be used unambiguous-

ly as an index of the amount of material present in the sample (see Table 2-2).

12. Analyze the selected diagnostic reflection(s) by step scanning in increments of 0.02° 2θ for an appropriate fixed time and integrating the counts. (A fixed count scan may be used alternatively; however, the method chosen should be used consistently for all samples and standards.) An appropriate scanning interval should be selected for each peak, and background corrections made. For a fixed time scan, measure the background on each side of the peak for one-half the peak-scanning time. The net intensity, I_a, is the difference between the peak integrated count and the total background count.

13. Determine the net count, I_{Ag}, of the filter 2.36 Å silver peak following the procedure in step 12. Remove the filter from the holder, reverse it, and reattach it to the holder. Determine the net count for the unattenuated silver peak, I°_{Ag}. Scan times may be *less* for measurement of silver peaks than for sample peaks; however, they should be *constant* throughout the analysis.

14. Normalize all raw, net intensities (to correct for instrument instabilities) by referencing them to an external standard (e.g., the 3.34 Å peak of an α-quartz reference crystal). After each unknown is scanned, determine the net count, I_r, of the reference specimen following the procedure in step 12. Determine the normalized intensities by dividing the peak intensities by I_r:

$$\hat{I}_a = \frac{I_a}{I^{\circ}_r}, \quad \hat{I}_{Ag} = \frac{I_{Ag}}{I^{\circ}_r}, \quad \text{and } \hat{I}^{\circ}_{Ag} = \frac{I^{\circ}_{Ag}}{I^{\circ}_r}$$

2.8 Calibration

2.8.1 *Preparation of Calibration Standards*

1. Mill and size standard asbestos materials according to the procedure outlined in Section 2.7.2.1.1. *Equivalent, standardized matrix reduction and sizing techniques should be used for both standard and sample materials.*

2. Dry at 100° C for 2 hr; cool in a desiccator.

3. Prepare two suspensions of each standard in isopropanol by weighing approximately 10 and 50 mg of the dry material to the nearest 0.01 mg. Quantitatively transfer each to a 1-L volumetric flask with approximately 200 mL isopropanol to which a few drops of surfactant have been added.

4. Ultrasonicate for 10 min at a power density of approximately 0.1 W/mL, to disperse the asbestos material.

5. Dilute to volume with isopropanol.

6. Place the flask on a magnetic stirring plate. Stir.

7. Prepare, in triplicate, a series of at least five standard filters to cover the desired analytical range, using appropriate aliquots of the 10 and 50 mg/L suspensions and the following procedure.

Mount a silver membrane filter on the filtration apparatus. Place a few milliliters of isopropanol in the reservoir. Vigorously hand shake the asbestos suspension and immediately withdraw an aliquot from the center of the suspension. Do not adjust the volume in the pipet by expelling part of the suspension; if more than the desired aliquot is withdrawn, discard the aliquot and resume the procedure with a clean pipet. Transfer the aliquot to the reservoir. Keep the tip of the pipet near the surface of the isopropanol. Filter rapidly under vacuum. Do not wash the sides of the reservoir. Leave the vacuum on for a time sufficient to dry the filter. Release the vacuum and remove the filter with forceps.

2.8.2 *Analysis of Calibration Standards*

1. Mount each filter on a flat holder. Perform step scans on selected diagnostic reflections of the standards and reference specimen using the procedure outlined in Section 2.7.2.3, step 12, and the same conditions as those used for the samples.

2. Determine the normalized intensity for each peak measured, $\hat{I}_{std}$, as outlined in Section 2.7.2.3, step 14.

2.9 Calculations

For each asbestos reference material, calculate the exact weight deposited on each standard filter from the concentrations of the standard suspensions and aliquot volumes. Record the weight, w, of each standard. Prepare a calibration curve by regressing $\hat{I}2_{std}$ on w. Poor reproducibility (±15 percent RSD) at any given level indicates problems in the sample preparation technique, and a need for new standards. The data should fit a straight line equation.

Determine the slope, m, of the calibration curve in counts/microgram. The intercept, b, of the line with the $\hat{I}_{std}$ axis should be approximately zero. A large negative intercept indicates an error in determining the background. This may arise from incorrectly measuring the baseline or from interference by another phase at the angle of background measurement. A large positive intercept indicates an error in determining the baseline or that an impurity is included in the measured peak.

Using the normalized intensity, $\hat{I}_{Ag}$, for the attenuated silver peak of a sample, and the corresponding normalized intensity from the unattenuated silver peak, $\hat{I}^{\circ}_{Ag}$, of the sample filter, calculate the transmittance, T, for each sample as follows:[26] [27]

$$T = \frac{\hat{I}_{Ag}}{\hat{I}^{\circ}_{Ag}}$$

Determine the correction factor, f(T), for each sample according to the formula:

$$f(T) = \frac{-R\,(\ln T)}{1-T^{R}}$$

where

$$R = \frac{\sin \Theta_{Ag}}{\sin \Theta_{a}}$$

θ_{Ag} = angular position of the measured silver peak (from Bragg's Law), and θ_{a} = angular position of the diagnostic asbestos peak.

Calculate the weight, W_a, in micrograms, of the asbestos material analyzed for in each sample, using the appropriate calibration data and absorption corrections:

$$W_a = \frac{\hat{I}_a f(t) - b}{m}$$

Calculate the percent composition, P_a, of each asbestos mineral analyzed for in the parent material, from the total sample weight, W_T, on the filter:

$$P_a = \frac{W_a\,(1-.01L)}{W_T} \times 100$$

where

P_a = percent asbestos mineral in parent material;

W_a = mass of asbestos mineral on filter, in μg;

W_T = total sample weight on filter, in μg;

L = percent weight loss of parent material on ashing and/or acid treatment (see Section 2.7.2.3).

2.10 References

1. H. P. Klug and L. E. Alexander, *X-ray Diffraction Procedures for Polycrystalline and Amorphous Materials,* 2nd ed., New York: John Wiley and Sons, 1979.

2. L. V. Azaroff and M. J. Buerger, *The Powder Method of X-ray Crystallography,* New York: McGraw-Hill, 1958.

3. *JCPDS-International Center for Diffraction Data Powder Diffraction File,* U.S. Department of Commerce, National Bureau of Standards, and Joint Committee on Powder Diffraction Studies, Swarthmore, PA.

4. W. J. Campbell, C. W. Huggins, and A. G. Wylie, *Chemical and Physical Characterization of Amosite, Chrysotile, Crocidolite, and Nonfibrous Tremolite for National Institute of Environmental Health Sciences Oral Ingestion Studies,* U.S. Bureau of Mines Report of Investigation RI8452, 1980.

5. B. A. Lange and J. C. Haartz, Determination of microgram quantities of asbestos by X-ray diffraction: Chrysotile in thin dust layers of matrix material, *Anal. Chem., 51*(4):520-525, 1979.

6. *NIOSH Manual of Analytical Methods,* Volume 5, U.S. Dept. HEW, August 1979, pp. 309-1 to 309-9.

7. H. Dunn and J. H. Stewart, Jr., Quantitative determination of chrysotile in building materials, *The Microscope, 29*(1), 1981.

8. M. Taylor, Methods for the quantitative determination of asbestos and quartz in bulk samples using X-ray diffraction, *The Analyst, 103*(1231):1009-1020, 1978.

9. L. Birks, M. Fatemi, J. V. Gilfrich, and E. T. Johnson, *Quantitative Analysis of Airborne Asbestos by X-ray Diffraction,* Naval Research Laboratory Report 7879, Naval Research Laboratory, Washington, D.C., 1975.

10. U.S. Environmental Protection Agency, *Asbestos-Containing Materials in School Buildings: A Guidance Document,* Parts 1 and 2, EPA/OTS No. C00090, March 1979.

11. J. B. Krause and W. H. Ashton, Misidentification of asbestos in talc, pp. 339-353, in: *Proceedings of Workshop on Asbestos: Definitions and Measurement Methods* (NBS Special Publication 506), C. C. Gravatt, P. D. LaFleur, and K. F. Heinrich (eds.), Washington, D.C.: National Measurement Laboratory, National Bureau of Standards, 1977 (issued 1978).

12. H. D. Stanley, The detection and identification of asbestos and asbesti-form minerals in talc, pp. 325-337, *in Proceedings of Workshop on Asbestos: Definitions and Measurement Methods* (NBS Special Publication 506), C. C. Gravatt, P. D. LaFleur, and K. F. Heinrich (eds.), Washington, D.C., National Measurement Laboratory, National Bureau of Standards, 1977 (issued 1978).

13. A. L. Rickards, Estimation of trace amounts of chrysotile asbestos by X-ray diffraction, *Anal. Chem., 44*(11):1872-3, 1972.

14. P. M. Cook, P. L. Smith, and D. G. Wilson, Amphibole fiber concentration and determination for a series of community air samples: use of X-ray diffraction to supplement electron microscope analysis, in: *Electron Microscopy and X-ray Applications to Environmental and Occupation Health Analysis,* P. A. Russell and A. E. Hutchings (eds.), Ann Arbor: Ann Arbor Science Publications, 1977.

15. A. N. Rohl and A. M. Langer, Identification and quantitation of asbestos in talc, *Environ. Health Perspectives, 9*:95-109, 1974.

16. J. L. Graf, P. K. Ase, and R. G. Draftz, *Preparation and Characterization of Analytical Reference Minerals,* DHEW (NIOSH) Publication No. 79-139, June 1979.

17. J. C. Haartz, B. A. Lange, R. G. Draftz, and R. F. Scholl, Selection and characteriza-

tion of fibrous and nonfibrous amphiboles for analytical methods development, pp. 295-312, in: *Proceedings of Workshop on Asbestos: Definitions and Measurement Methods* (NBS Special Publication 506), C. C. Gravatt, P. D. LaFleur, and K. F. Heinrich (eds.), Washington, D.C.: National Measurement Laboratory, National Bureau of Standards, 1977 (issued 1978).

18. Personal communication, A. M. Langer, Environmental Sciences Laboratory, Mount Sinai School of Medicine of the City University of New York, New York, New York.

19. A. M. Langer, M. S. Wolff, A. N. Rohl, and I. J. Selikoff, Variation of properties of chrysotile asbestos subjected to milling, *J. Toxicol. and Environ. Health, 4*:173-188, 1978.

20. A. M. Langer, A. D. Mackler, and F. D. Pooley, Electron microscopical investigation of asbestos fibers, *Environ. Health Perspect., 9*:63-80, 1974.

21. E. Occella and G. Maddalon, X-ray diffraction characteristics of some types of asbestos in relation to different techniques of comminution, *Med. Lavoro, 54*(10):628-636, 1963.

22. K. R. Spurny, W. Stöber, H. Opiela, and and G. Weiss, On the problem of milling and ultrasonic treatment of asbestos and glass fibers in biological and analytical applications, *Am. Ind. Hyg. Assoc. J., 41*:198-203, 1980.

23. L. G. Berry and B. Mason, *Mineralogy*, San Francisco: W. H. Greeman & Co., 1959.

24. J. P. Schelz, The detection of chrysotile asbestos at low levels in talc by differential thermal analysis, *Thermochimica Acta, 8*:197-204, 1974.

25. Reference 1, pp. 372-374.

26. J. Leroux, *Staub-Reinhalt Luft, 29*:26 (English), 1969.

27. J. A. Leroux, B. C. Davey, and A. Paillard, *Am. Ind. Hyg. Assoc. J., 34*:409, 1973.

PART 775—STORAGE AND DISPOSAL OF WASTE MATERIAL

Subparts A—I [Reserved]

Subpart J—Disposal of Waste Material Containing Tetrachlorodibenzo-p-dioxin (TCDD)

Sec.
775.180 Scope.
775.183 Definitions.
775.186 Prohibited acts.
775.190 Required acts.
775.195 Compliance.
775.197 Exclusions.

AUTHORITY: Sec. 6 Toxic Substances Control Act (TSCA), Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605).

SOURCE: 45 FR 32686, May 19, 1980, unless otherwise noted.

Subparts A—I [Reserved]

Subpart J—Disposal of Waste Material Containing Tetrachlorodibenzo-p-dioxin (TCDD)

§ 775.180 Scope.

This subpart prohibits the removal for disposal of wastes containing TCDD presently located at the Vertac Chemical Co. facility at Jacksonville, Arkansas. In addition, this subpart requires persons who dispose of wastes containing TCDD to notify the Administrator sixty days before disposal.

§ 775.183 Definitions.

In addition to the definitions in section 3 of the toxic Substances Control Act (TSCA), 15 U.S.C. 2602, the following definitions shall apply to this subpart.

(a) "Assistant Administrator" means the EPA Assistant Administrator for Pesticides and Toxic Substances.

(b) "EPA" means the U.S. Environmental Protection Agency.

(c) "Dispose of chemical substances or mixtures for commercial purposes" means disposal by any person who disposes of chemical substances or mixtures for the purpose of obtaining commercial advantage, as well as disposal by any person incidental to his commercial activities.

(d) "Person" includes any individual, firm, company, corporation, joint venture, partnership, proprietorship, association, or any other business entity; any state or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the federal government.

(e) "TCDD" means 2,3,7,8-Tetrachlorodibenzo-p-dioxin.

(f) "Waste material" or "waste" means any garbage, refuse, sludge from a waste treatment plant or water supply facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations.

(g) "Waste material containing TCDD" or "waste(s) containing TCDD" means any waste material or waste(s) resulting from manufacture or processing of 2,4,5-Trichlorophenol or its pesticide derivatives, or any waste(s) resulting from manufacturing processes using equipment that was at some time used in the manufacture of 2,4,5-Trichlorophenl or its pesticide derivatives.

§ 775.186 Prohibited acts.

(a) Vertac Chemical Co., of Memphis, Tennessee, shall not remove for disposal any of the wastes containing TCDD produced before May 12, 1980, currently located at its facility in Jacksonville, Arkansas.

(b) No person who disposes of chemical substances or mixtures for commercial purposes shall remove for purposes of disposal the wastes containing TCDD produced before May 12, 1980 currently located at the Vertac Chemical Co. facility in Jacksonville, Arkansas.

§ 775.190 Required acts.

(a) Vertac Chemical Co.: (1) Shall post a notice (or notices, as appropriate) at the principal access point to the storage area(s) at its Jacksonville facility stating that Tetrachlorodibenzo-p-dioxin contaminated waste materials are stored on site and that removal for disposal of such waste is prohibited without express permission from the Assistant Administrator.

(2) Shall dispose of all waste material containing TCDD produced at the Jacksonville facility after May 12, 1980, at facilities which comply with the requirements of § 761.41(b), until the required actions of paragraph (a)(3) of this section are completed. Vertac shall notify the Assistant Administrator at least one week prior to shipment in accordance with the requirements of paragraphs (b) (1) through (5) of this section. Such notification shall also include sufficient additional information to allow the Assistant Administrator to evaluate compliance with the requirements of § 761.41(b). (This additional information will only be required once for each facility receiving waste material containing TCDD).

(3) Shall test the wastes produced after May 12, 1980 at the Jacksonville facility, employing the TCDD detection methodology described in § 775.197(c) of this subpart and provide the Assistant Administrator with the results within two weeks of the date the analyses are completed. If the wastes contain no detectable TCDD then the requirement in § 775.190(b) will be withdrawn, and the exclusion in § 775.197(b) will be controlling. In the event that future production shifts to 2,4,5-Trichlorophenol or its pesticide derivatives separate notification under § 775.190(b) will be required before any wastes generated in such production can be disposed of.

(b) *Disposal notification.* Any person who disposes of chemical substances or mixtures for commercial purposes who wishes to dispose of wastes containing TCDD shall notify the Assistant Administrator sixty (60) days prior to their intended disposal of such wastes. Notification shall be by certified letter to the Assistant Administrator with a copy to the EPA Regional Administrator for the region in which the waste is currently stored. The notification shall include, at a minimum, the following information.

(1) The name of the firm involved and the address of both the corporate headquarters and the specific site for which notification of intent to dispose is being given.

(2) The name and telephone number of a person to whom EPA personnel can direct any questions for clarification or additional information.

(3) The concentration of TCDD in the waste materials and the method of detection, e.g., whether the amount is an estimate or is from laboratory data, and if the latter, the name of the laboratory and the methodology employed, including the level of detection achievable by the methodology.

(4) The total quantity of waste material and the number of containers involved.

(5) A brief description of the proposed disposal including the method of disposal, e.g., landfill, incineration, etc., the location of the disposal, and the name of any disposal firm(s) involved.

(6) A summary of the present status of the waste including the method of containment (drums, barrels, etc.), the presence or absence of:

(i) An impermeable pad.

(ii) Curbing.

(iii) Dikes.

(iv) Roof structure.

(v) Accessibility to unauthorized persons.

In addition, firms are encouraged to include any other information that may be of use to the Agency in determining the feasibility of various alternative courses of action. The Assistant Administrator shall have the authority to prohibit the intended disposal, by notification of the concerned party(-ies) by registered mail, if the Assistant Administrator determines that the proposed disposal will present an unreasonable risk, or if there is insufficient information on which to base a finding that such an unreasonable risk is absent.

§ 775.195 Compliance.

(a) Section 15 (1) of TSCA (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under section 6. Section 15 (3) (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to submit reports, notices or other information required by any rule promulgated under the Act. Thus, failure to comply with any aspect of this rule would be a violation as defined by section 15 (1) and (3).

(b) Section 16(a) of TSCA (15 U.S.C. 2615) provides that any person who violates any provision of section 15 shall be liable to the United States for a civil penalty of up to $25,000 per violation, with each day of violation constituting a separate violation. If a violation is knowing or willful, criminal penalties of up to one year in prison and $25,000 per day of violation may also be assessed. Under section 17 of TSCA (15 U.S.C. 2616), the Agency may take injunctive action to restrain persons from violating section 6 rules.

§ 775.197 Exclusions.

(a) This subpart does not apply to persons disposing of wastes containing TCDD at facilities permitted for disposal of TCDD under section 3005(c) of the Resource Conservation and Recovery Act, 42 U.S.C. 6925(c).

(b) This subpart does not apply to persons who would otherwise be subject to this subpart if they show that their wastes contain no detectable levels of TCDD employing the TCDD detection methodology established by the EPA Dioxin Monitoring Program—capillary column gas chromatography interfaced with high resolution mass spectrometry (GC/HRMS).

(c) This subpart does not apply when the Assistant Administrator exercises his discretion and waives, in writing, the 60 day notice requirement for any person.

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CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

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PART 1500—PURPOSE, POLICY, AND MANDATE

Sec.
1500.1 Purpose.
1500.2 Policy.
1500.3 Mandate.
1500.4 Reducing paperwork.
1500.5 Reducing delay.
1500.6 Agency authority.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

SOURCE: 43 FR 55990, Nov. 28, 1978, unless otherwise noted.

§ 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

§ 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

§ 1500.3 Mandate.

Parts 1500-1508 of this title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (NEPA or the Act) except where compliance would be inconsistent with other statutory requirements. These regulations are issued pursuant to NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.) section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977). These regulations, unlike the predecessor guidelines, are not confined to sec. 102(2)(C) (environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has made a final finding of no significant impact (when such a finding will result in action affecting the environment), or takes action that will result in irreparable injury. Furthermore, it is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action.

§ 1500.4 Reducing paperwork.

Agencies shall reduce excessive paperwork by:

(a) Reducing the length of environmental impact statements (§ 1502.2(c)), by means such as setting appropriate page limits (§§ 1501.7(b)(1) and 1502.7).

(b) Preparing analytic rather than encyclopedic environmental impact statements (§ 1502.2(a)).

(c) Discussing only briefly issues other than significant ones (§ 1502.2(b)).

(d) Writing environmental impact statements in plain language (§ 1502.8).

(e) Following a clear format for environmental impact statements (§ 1502.10).

(f) Emphasizing the portions of the environmental impact statement that are useful to decisionmakers and the public (§§ 1502.14 and 1502.15) and reducing emphasis on background material (§ 1502.16).

(g) Using the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (§ 1501.7).

(h) Summarizing the environmental impact statement (§ 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (§ 1502.19).

(i) Using program, policy, or plan environmental impact statements and tiering from statements of broad scope to those of narrower scope, to eliminate repetitive discussions of the same issues (§§ 1502.4 and 1502.20).

(j) Incorporating by reference (§ 1502.21).

(k) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(l) Requiring comments to be as specific as possible (§ 1503.3).

(m) Attaching and circulating only changes to the draft environmental impact statement, rather than rewriting and circulating the entire statement when changes are minor (§ 1503.4(c)).

(n) Eliminating duplication with State and local procedures, by providing for joint preparation (§ 1506.2), and with other Federal procedures, by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(o) Combining environmental documents with other documents (§ 1506.4).

(p) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental impact statement (§ 1508.4).

(q) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment and is therefore exempt from requirements to prepare an environmental impact statement (§ 1508.13).

[43 FR 55990, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

§ 1500.5 Reducing delay.

Agencies shall reduce delay by:

(a) Integrating the NEPA process into early planning (§ 1501.2).

(b) Emphasizing interagency cooperation before the environmental impact statement is prepared, rather than submission of adversary comments on a completed document (§ 1501.6).

(c) Insuring the swift and fair resolution of lead agency disputes (§ 1501.5).

(d) Using the scoping process for an early identification of what are and what are not the real issues (§ 1501.7).

(e) Establishing appropriate time limits for the environmental impact statement process (§§ 1501.7(b)(2) and 1501.8).

(f) Preparing environmental impact statements early in the process (§ 1502.5).

(g) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(h) Eliminating duplication with State and local procedures by providing for joint preparation (§ 1506.2) and with other Federal procedures by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(i) Combining environmental documents with other documents (§ 1506.4).

(j) Using accelerated procedures for proposals for legislation (§ 1506.8).

(k) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment (§ 1508.4) and which are therefore exempt from requirements to prepare an environmental impact statement.

(l) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment (§ 1508.13) and is therefore exempt from requirements to prepare an environmental impact statement.

§ 1500.6 Agency authority.

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

PART 1501—NEPA AND AGENCY PLANNING

Sec.
1501.1 Purpose.
1501.2 Apply NEPA early in the process.
1501.3 When to prepare an environmental assessment.
1501.4 Whether to prepare an environmental impact statement.
1501.5 Lead agencies.
1501.6 Cooperating agencies.
1501.7 Scoping.
1501.8 Time limits.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609, and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

SOURCE: 43 FR 55992, Nov. 29, 1978, unless otherwise noted.

§ 1501.1 Purpose.

The purposes of this part include:

(a) Integrating the NEPA process into early planning to insure appropriate consideration of NEPA's policies and to eliminate delay.

(b) Emphasizing cooperative consultation among agencies before the environmental impact statement is prepared rather than submission of adversary comments on a completed document.

(c) Providing for the swift and fair resolution of lead agency disputes.

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly.

(e) Providing a mechanism for putting appropriate time limits on the environmental impact statement process.

§ 1501.2 Apply NEPA early in the process.

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Each agency shall:

(a) Comply with the mandate of section 102(2)(A) to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment," as specified by § 1507.2.

(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.

(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.

(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.

(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.

(3) The Federal agency commences its NEPA process at the earliest possible time.

§ 1501.3 When to prepare an environmental assessment.

(a) Agencies shall prepare an environmental assessment (§ 1508.9) when necessary under the procedures adopted by individual agencies to supplement these regulations as described in § 1507.3. An assessment is not necessary if the agency has decided to prepare an environmental impact statement.

(b) Agencies may prepare an environmental assessment on any action at any time in order to assist agency planning and decisionmaking.

§ 1501.4 Whether to prepare an environmental impact statement.

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which:

(1) Normally requires an environmental impact statement, or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement.

(e) Prepare a finding of no significant impact (§ 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.

(1) The agency shall make the finding of no significant impact available

to the affected public as specified in § 1506.6.

(2) In certain limited circumstances, which the agency may cover in its procedures under § 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or

(ii) The nature of the proposed action is one without precedent.

§ 1501.5 Lead agencies.

(a) A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§ 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

(1) Magnitude of agency's involvement.

(2) Project approval/disapproval authority.

(3) Expertise concerning the action's environmental effects.

(4) Duration of agency's involvement.

(5) Sequence of agency's involvement.

(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(1) A precise description of the nature and extent of the proposed action.

(2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified in paragraph (c) of this section.

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

[43 FR 55992, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

§ 1501.6 Cooperating agencies.

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process (described below in § 1501.7).

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b) (3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council.

§ 1501.7 Scoping.

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§ 1508.22) in the FEDERAL REGISTER except as provided in § 1507.3(e).

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.

(b) As part of the scoping process the lead agency may:

(1) Set page limits on environmental documents (§ 1502.7).

(2) Set time limits (§ 1501.8).

(3) Adopt procedures under § 1507.3 to combine its environmental assessment process with its scoping process.

(4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

(c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

§ 1501.8 Time limits.

Although the Council has decided that prescribed universal time limits for the entire NEPA process are too inflexible, Federal agencies are encouraged to set time limits appropriate to individual actions (consistent with the time intervals required by § 1506.10). When multiple agencies are involved the reference to agency below means lead agency.

(a) The agency shall set time limits if an applicant for the proposed action requests them: *Provided*, That the limits are consistent with the purposes of NEPA and other essential considerations of national policy.

(b) The agency may:

(1) Consider the following factors in determining time limits:

(i) Potential for environmental harm.

(ii) Size of the proposed action.

(iii) State of the art of analytic techniques.

(iv) Degree of public need for the proposed action, including the consequences of delay.

(v) Number of persons and agencies affected.

(vi) Degree to which relevant information is known and if not known the time required for obtaining it.

(vii) Degree to which the action is controversial.

(viii) Other time limits imposed on the agency by law, regulations, or executive order.

(2) Set overall time limits or limits for each constituent part of the NEPA process, which may include:

(i) Decision on whether to prepare an environmental impact statement (if not already decided).

(ii) Determination of the scope of the environmental impact statement.

(iii) Preparation of the draft environmental impact statement.

(iv) Review of any comments on the draft environmental impact statement from the public and agencies.

(v) Preparation of the final environmental impact statement.

(vi) Review of any comments on the final environmental impact statement.

(vii) Decision on the action based in part on the environmental impact statement.

(3) Designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.

(c) State or local agencies or members of the public may request a Federal Agency to set time limits.

PART 1502—ENVIRONMENTAL IMPACT STATEMENT

Sec.

1502.1 Purpose.
1502.2 Implementation.
1502.3 Statutory requirements for statements.
1502.4 Major Federal actions requiring the preparation of environmental impact statements.
1502.5 Timing.
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Sec.
1502.22 Incomplete or unavailable information.
1502.23 Cost-benefit analysis.
1502.24 Methodology and scientific accuracy.
1502.25 Environmental review and consultation requirements.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

SOURCE: 43 FR 55994, Nov. 29, 1978, unless otherwise noted.

§ 1502.1 Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

§ 1502.2 Implementation.

To achieve the purposes set forth in § 1502.1 agencies shall prepare environmental impact statements in the following manner:

(a) Environmental impact statements shall be analytic rather than encyclopedic.

(b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.

(c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA and with these regulations. Length should vary first with potential environmental problems and then with project size.

(d) Environmental impact statements shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.

(e) The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker.

(f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (§ 1506.1).

(g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

§ 1502.3 Statutory requirements for statements.

As required by sec. 102(2)(C) of NEPA environmental impact statements (§ 1508.11) are to be included in every recommendation or report.

On proposals (§ 1508.23).

For legislation and (§ 1508.17).

Other major Federal actions (§ 1508.18).

Significantly (§ 1508.27).

Affecting (§§ 1508.3, 1508.8).

The quality of the human environment (§ 1508.14).

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20), and other methods listed in §§ 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

§ 1502.5 Timing.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§ 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made (§§ 1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

(b) For applications to the agency appropriate environmental assessments or statements shall be commenced no later than immediately after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

(d) For informal rulemaking the draft environmental impact statement shall normally accompany the proposed rule.

§ 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7).

§ 1502.7 Page limits.

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of § 1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

§ 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

§ 1502.9 Draft, final, and supplemental statements.

Except for proposals for legislation as provided in § 1506.8 environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

§ 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

(a) Cover sheet.

(b) Summary.

(c) Table of contents.

(d) Purpose of and need for action.

(e) Alternatives including proposed action (secs. 102(2)(C)(iii) and 102(2)(E) of the Act).

(f) Affected environment.

(g) Environmental consequences (especially sections 102(2)(C) (i), (ii), (iv), and (v) of the Act).

(h) List of preparers.

(i) List of Agencies, Organizations, and persons to whom copies of the statement are sent.

(j) Index.

(k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, as further described in §§ 1502.11-1502.18, in any appropriate format.

§ 1502.11 Cover sheet.

The cover sheet shall not exceed one page. It shall include:

(a) A list of the responsible agencies including the lead agency and any cooperating agencies.

(b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.

(c) The name, address, and telephone number of the person at the agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA under § 1506.10).

The information required by this section may be entered on Standard Form 424 (in items 4, 6, 7, 10, and 18).

§ 1502.12 Summary.

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

§ 1502.13 Purpose and need.

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§ 1502.15) and the Environmental Consequences (§ 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

§ 1502.15 Affected environment.

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

§ 1502.16 Environmental consequences.

This section forms the scientific and analytic basis for the comparisons under § 1502.14. It shall consolidate the discussions of those elements required by secs. 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of sec. 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in § 1502.14. It shall include discussions of:

(a) Direct effects and their significance (§ 1508.8).

(b) Indirect effects and their significance (§ 1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See § 1506.2(d).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under § 1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(h) Means to mitigate adverse environmental impacts (if not fully covered under § 1502.14(f)).

[43 FR 55994, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

§ 1502.17 List of preparers.

The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement (§§ 1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages.

§ 1502.18 Appendix.

If an agency prepares an appendix to an environmental impact statement the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (§ 1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request.

§ 1502.19 Circulation of the environmental impact statement.

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in § 1502.18(d) and unchanged statements as provided in § 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

(a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.

(b) The applicant, if any.

(c) Any person, organization, or agency requesting the entire environmental impact statement.

(d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.

§ 1502.20 Tiering.

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (§ 1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Sec. 1508.28).

§ 1502.21 Incorporation by reference.

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.

(a) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence.

§ 1502.23 Cost-benefit analysis.

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with sec. 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision.

§ 1502.24 Methodology and scientific accuracy.

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

§ 1502.25 Environmental review and consultation requirements.

(a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other environmental review laws and executive orders.

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate.

PART 1503—COMMENTING

Sec.
1503.1 Inviting comments.
1503.2 Duty to comment.
1503.3 Specificity of comments.
1503.4 Response to comments.

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

Source: 43 FR 55997, Nov. 29, 1978.

§ 1503.1 Inviting comments.

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

(ii) Indian tribes, when the effects may be on a reservation; and

(iii) Any agency which has requested that it receive statements on actions of the kind proposed.

Office of Management and Budget Circular A-95 (Revised), through its system of clearinghouses, provides a means of securing the views of State and local environmental agencies. The clearinghouses may be used, by mutual agreement of the lead agency and the clearinghouse, for securing State and local reviews of the draft environmental impact statements.

(3) Request comments from the applicant, if any.

(4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

(b) An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under § 1506.10.

§ 1503.2 Duty to comment.

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in § 1506.10. A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment.

§ 1503.3 Specificity of comments.

(a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences.

§ 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (§ 1502.19). The entire document with a new cover sheet shall be filed as the final statement (§ 1506.9).

PART 1504—PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY

Sec.
1504.1 Purpose.
1504.2 Criteria for referral.
1504.3 Procedure for referrals and response.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

SOURCE: 43 FR 55998, Nov. 29, 1978, unless otherwise noted.

§ 1504.1 Purpose.

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public.

§ 1504.2 Criteria for referral.

Environmental referrals should be made to the Council only after concerted, timely (as early as possible in the process), but unsuccessful attempts to resolve differences with the lead agency. In determining what environmental objections to the matter are appropriate to refer to the Council, an agency should weigh potential adverse environmental impacts, considering:

(a) Possible violation of national environmental standards or policies.

(b) Severity.

(c) Geographical scope.

(d) Duration.

(e) Importance as precedents.

(f) Availability of environmentally preferable alternatives.

§ 1504.3 Procedure for referrals and response.

(a) A Federal agency making the referral to the Council shall:

(1) Advise the lead agency at the earliest possible time that it intends to refer a matter to the Council unless a satisfactory agreement is reached.

(2) Include such advice in the referring agency's comments on the draft environmental impact statement, except when the statement does not contain adequate information to permit an assessment of the matter's environmental acceptability.

(3) Identify any essential information that is lacking and request that it be made available at the earliest possible time.

(4) Send copies of such advice to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final environmental impact statement has been made available to the Environmental Protection Agency, commenting agencies, and the public. Except when an extension of this period has been granted by the lead agency, the Council will not accept a referral after that date.

(c) The referral shall consist of:

(1) A copy of the letter signed by the head of the referring agency and delivered to the lead agency informing the lead agency of the referral and the reasons for it, and requesting that no action be taken to implement the matter until the Council acts upon the referral. The letter shall include a copy of the statement referred to in (c)(2) of this section.

(2) A statement supported by factual evidence leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

(i) Identify any material facts in controversy and incorporate (by reference if appropriate) agreed upon facts,

(ii) Identify any existing environmental requirements or policies which would be violated by the matter,

(iii) Present the reasons why the referring agency believes the matter is environmentally unsatisfactory,

(iv) Contain a finding by the agency whether the issue raised is of national importance because of the threat to national environmental resources or policies or for some other reason,

(v) Review the steps taken by the referring agency to bring its concerns to the attention of the lead agency at the earliest possible time, and

(vi) Give the referring agency's recommendations as to what mitigation alternative, further study, or other course of action (including abandonment of the matter) are necessary to remedy the situation.

(d) Not later than twenty-five (25) days after the referral to the Council the lead agency may deliver a response to the Council, and the referring agency. If the lead agency requests more time and gives assurance that the matter will not go forward in the interim, the Council may grant an extension. The response shall:

(1) Address fully the issues raised in the referral.

(2) Be supported by evidence.

(3) Give the lead agency's response to the referring agency's recommendations.

(e) Interested persons (including the applicant) may deliver their views in writing to the Council. Views in support of the referral should be delivered not later than the referral. Views in support of the response shall be delivered not later than the response.

(f) Not later than twenty-five (25) days after receipt of both the referral and any response or upon being informed that there will be no response (unless the lead agency agrees to a longer time), the Council may take one or more of the following actions:

(1) Conclude that the process of referral and response has successfully resolved the problem.

(2) Initiate discussions with the agencies with the objective of mediation with referring and lead agencies.

(3) Hold public meetings or hearings to obtain additional views and information.

(4) Determine that the issue is not one of national importance and request the referring and lead agencies to pursue their decision process.

(5) Determine that the issue should be further negotiated by the referring and lead agencies and is not appropriate for Council consideration until one or more heads of agencies report to the Council that the agencies' disagreements are irreconcilable.

(6) Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency).

(7) When appropriate, submit the referral and the response together with the Council's recommendation to the President for action.

(g) The Council shall take no longer than 60 days to complete the actions specified in paragraph (f) (2), (3), or (5) of this section.

(h) When the referral involves an action required by statute to be determined on the record after opportunity for agency hearing, the referral shall be conducted in a manner consistent with 5 U.S.C. 557(d) (Administrative Procedure Act).

[43 FR 55998, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

PART 1505—NEPA AND AGENCY DECISIONMAKING

Sec.
1505.1 Agency decisionmaking procedures.
1505.2 Record of decision in cases requiring environmental impact statements.
1505.3 Implementing the decision.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

SOURCE: 43 FR 55999, Nov. 29, 1978, unless otherwise noted.

§ 1505.1 Agency decisionmaking procedures.

Agencies shall adopt procedures (§ 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

(a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).

(b) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment and assuring that the NEPA process corresponds with them.

(c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.

(d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.

(e) Requiring that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.

§ 1505.2 Record of decision in cases requiring environmental impact statements.

At the time of its decision (§ 1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, including that required by OMB Circular A-95 (Revised), part I, sections 6 (c) and (d), and part II, section 5(b)(4), shall:

(a) State what the decision was.

(b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how those considerations entered into its decision.

(c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.

§ 1505.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring.

PART 1506—OTHER REQUIREMENTS OF NEPA

Sec.

1506.1 Limitations on actions during NEPA process.
1506.2 Elimination of duplication with State and local procedures.
1506.3 Adoption.
1506.4 Combining documents.
1506.5 Agency responsibility.
1506.6 Public involvement.
1506.7 Further guidance.
1506.8 Proposals for legislation.
1506.9 Filing requirements.
1506.10 Timing of agency action.
1506.11 Emergencies.
1506.12 Effective date.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

SOURCE: 43 FR 56000, Nov. 29, 1978, unless otherwise noted.

§ 1506.1 Limitations on actions during NEPA process.

(a) Until an agency issues a record of decision as provided in § 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:

(1) Have an adverse environmental impact; or

(2) Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate environmental impact statement; and

(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance. Nothing in this section shall preclude Rural Electrification Administration approval of minimal expenditures not affecting the environment (*e.g.* long leadtime equipment and purchase options) made by nongovernmental entities seeking loan guarantees from the Administration.

§ 1506.2 Elimination of duplication with State and local procedures.

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

§ 1506.3 Adoption.

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under Part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify.

§ 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.

§ 1506.5 Agency responsibility.

(a) *Information.* If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (§ 1502.17). It is the intent of this paragraph that acceptable work not be redone, but that it be verified by the agency.

(b) *Environmental assessments.* If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.

(c) *Environmental impact statements.* Except as provided in §§ 1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under § 1501.6(b), a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency.

§ 1506.6 Public involvement.

Agencies shall:

(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the FEDERAL REGISTER and notice by mail to nation-

al organizations reasonably expected to be interested in the matter and may include listing in the *102 Monitor*. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations including small business associations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public.

(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.

(f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

§ 1506.7 Further guidance.

The Council may provide further guidance concerning NEPA and its procedures including:

(a) A handbook which the Council may supplement from time to time, which shall in plain language provide guidance and instructions concerning the application of NEPA and these regulations.

(b) Publication of the Council's Memoranda to Heads of Agencies.

(c) In conjunction with the Environmental Protection Agency and the publication of the 102 Monitor, notice of:

(1) Research activities;

(2) Meetings and conferences related to NEPA; and

(3) Successful and innovative procedures used by agencies to implement NEPA.

§ 1506.8 Proposals for legislation.

(a) The NEPA process for proposals for legislation (§ 1508.17) significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement which can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(b) Preparation of a legislative environmental impact statement shall conform to the requirements of these regulations except as follows:

(1) There need not be a scoping process.

(2) The legislative statement shall be prepared in the same manner as a draft statement, but shall be considered the "detailed statement" required by statute; *Provided*, That when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by §§ 1503.1 and 1506.10.

(i) A Congressional Committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

(ii) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and the Wilderness Act (16 U.S.C. 1131 et seq.)).

(iii) Legislative approval is sought for Federal or federally assisted construction or other projects which the agency recommends be located at specific geographic locations. For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration, a draft statement shall accompany the Prospectus or the 11(b) Report of Building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

(iv) The agency decides to prepare draft and final statements.

(c) Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction.

§ 1506.9 Filing requirements.

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, D.C. 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and § 1506.10 of this section.

§ 1506.10 Timing of agency action.

(a) The Environmental Protection Agency shall publish a notice in the FEDERAL REGISTER each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under § 1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraph (a) of this section for a final environmental impact statement.

An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published. This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. An agency engaged in rulemaking under the Administrative Procedure Act or other statute for the purpose of protecting the public health or safety, may waive the time period in paragraph (b)(2) of this section and publish a decision on the final rule simultaneously with publication of the notice of the availability of the final environmental impact statement as described in paragraph (a) of this section.

(c) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently. However, subject to paragraph (d) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see § 1507.3(d).) Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days. When the Environmental Protection Agency reduces or extends any period of time it shall notify the Council.

[43 FR 56000, Nov. 29, 1978; 44 FR 874, Jan. 3, 1979]

§ 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

§ 1506.12 Effective date.

The effective date of these regulations is July 30, 1979, except that for agencies that administer programs that qualify under sec. 102(2)(D) of the Act or under sec. 104(h) of the Housing and Community Development Act of 1974 an additional four months shall be allowed for the State or local agencies to adopt their implementing procedures.

(a) These regulations shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effective date. These regulations do not apply to an environmental impact statement or supplement if the draft statement was filed before the effective date of these regulations. No completed environmental documents need be redone by reasons of these regulations. Until these regulations are applicable, the Council's guidelines published in the Federal Register of August 1, 1973, shall continue to be applicable. In cases where these regulations are applicable the guidelines are superseded. However, nothing shall prevent an agency from proceeding under these regulations at an earlier time.

(b) NEPA shall continue to be applicable to actions begun before January 1, 1970, to the fullest extent possible.

PART 1507—AGENCY COMPLIANCE

Sec.

1507.1 Compliance.
1507.2 Agency capability to comply.
1507.3 Agency procedures.

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

Source: 43 FR 56002, Nov. 29, 1978, unless otherwise noted.

§ 1507.1 Compliance.

All agencies of the Federal Government shall comply with these regulations. It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by § 1507.3 to the requirements of other applicable laws.

§ 1507.2 Agency capability to comply.

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability to evaluate what others do for it. Agencies shall:

(a) Fulfill the requirements of sec. 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on the human environment. Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.

(b) Identify methods and procedures required by sec. 102(2)(B) to insure that presently unquantified environmental amenities and values may be given appropriate consideration.

(c) Prepare adequate environmental impact statements pursuant to sec. 102(2)(C) and comment on statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.

(d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. This requirement of sec. 102(2)(E) extends to all such proposals, not just the more limited scope of sec. 102(2)(C)(iii) where the discussion of alternatives is confined to impact statements.

(e) Comply with the requirements of sec. 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.

(f) Fulfill the requirements of sections 102(2)(F), 102(2)(G), and 102(2)(I), of the Act and of Executive Order 11514, Protection and Enhancement of Environmental Quality, Sec. 2.

§ 1507.3 Agency procedures.

(a) Not later than eight months after publication of these regulations as finally adopted in the FEDERAL REGISTER, or five months after the establishment of an agency, whichever shall come later, each agency shall as necessary adopt procedures to supplement these regulations. When the agency is a department, major subunits are encouraged (with the consent of the department) to adopt their own procedures. Such procedures shall not paraphrase these regulations. They shall confine themselves to implementing procedures. Each agency shall consult with the Council while developing its procedures and before publishing them in the FEDERAL REGISTER for comment. Agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

(b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:

(1) Those procedures required by §§ 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4.

(2) Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (§ 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order that the unclassified portions can be made available to the public.

(d) Agency procedures may provide for periods of time other than those presented in § 1506.10 when necessary to comply with other specific statutory requirements.

(e) Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by § 1501.7 may be published at a reasonable time in advance of preparation of the draft statement.

PART 1508—TERMINOLOGY AND INDEX

Sec.
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1508.28 Tiering.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514 (Mar. 5, 1970, as amended by Executive Order 11991, May 24, 1977).

SOURCE: 43 FR 56003, Nov. 29, 1978, unless otherwise noted.

§ 1508.1 Terminology.

The terminology of this part shall be uniform throughout the Federal Government.

§ 1508.2 Act.

"Act" means the National Environmental Policy Act, as amended (42 U.S.C. 4321, et seq.) which is also referred to as "NEPA."

§ 1508.3 Affecting.

"Affecting" means will or may have an effect on.

§ 1508.4 Categorical exclusion.

"Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in § 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

§ 1508.5 Cooperating agency.

"Cooperating Agency" means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in § 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

§ 1508.6 Council.

"Council" means the Council on Environmental Quality established by Title II of the Act.

§ 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

§ 1508.8 Effects.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

§ 1508.9 Environmental assessment.

"Environmental Assessment":

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by sec. 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

§ 1508.10 Environmental document.

"Environmental document" includes the documents specified in § 1508.9 (environmental assessment), § 1508.11 (environmental impact statement), § 1508.13 (finding of no significant impact), and § 1508.22 (notice of intent).

§ 1508.11 Environmental impact statement.

"Environmental Impact Statement" means a detailed written statement as required by sec. 102(2)(C) of the Act.

§ 1508.12 Federal agency.

"Federal agency" means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

§ 1508.13 Finding of no significant impact.

"Finding of No Significant Impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

§ 1508.14 Human Environment.

"Human Environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (§ 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

§ 1508.15 Jurisdiction By Law.

"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

§ 1508.16 Lead agency.

"Lead Agency" means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement.

§ 1508.17 Legislation.

"Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

§ 1508.18 Major Federal action.

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§ 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

§ 1508.19 Matter.

"Matter" includes for purposes of Part 1504:

(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies.

§ 1508.20 Mitigation.

"Mitigation" includes:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

§ 1508.21 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of section 2 and Title I of NEPA.

§ 1508.22 Notice of intent.

"Notice of Intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

§ 1508.23 Proposal.

"Proposal" exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

§ 1508.24 Referring agency.

"Referring agency" means the federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality.

§ 1508.25 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (§§1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequencies together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include: (1) No action alternative.

(2) Other reasonable courses of actions.

(3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct; (2) indirect; (3) cumulative.

§ 1508.26 Special expertise.

"Special expertise" means statutory responsibility, agency mission, or related program experience.

§ 1508.27 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by

terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

[43 FR 56003, Nov. 29, 1978; 44 FR 874, Jan. 3, 1979]

§ 1508.28 Tiering.

"Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

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PART 1510—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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AUTHORITY: Sec. 311(c)(2), Pub. L. 92-500, as amended; 86 Stat. 865, 33 U.S.C. 1321(c)(2); Executive Order 11735, 38 FR 21243 (Aug. 1973).

SOURCE: 45 FR 17837, Mar. 19, 1980, unless otherwise noted.

Subpart A—Introduction

§ 1510.1 Purpose and objectives.

This National Oil and Hazardous Substances Polution Contingency Plan provides for coordinated Federal action to try to prevent discharges of oil and hazardous substances, and to protect the environment from damage when discharges occur. The plan also promotes Federal-State coordination and encourages local governments and private firms to build capabilities for cleaning up discharges.

§ 1510.2 Authority.

This plan was developed in compliance with section 311(c)(2) of the Clean Water Act, as amended (33 U.S.C. 1321(c)(2)). In Executive Order 11735, the President delegated to the Council on Environmental Quality authority and responsibility to prepare, publish, revise, and amend a National Contingency Plan for the removal of oil and hazardous substances.

(b) The plan and its Annexes, and regional and local plans, provide for:

(1) Assignment of responsibilities among Federal agencies, in coordination with State and local agencies;

(2) Identification, procurement, maintenance, and storage of equipment and supplies;

(3) Establishment or designation of

(i) A strike force to carry out the plan and

(ii) Trained and adequately equipped emergency task forces at major ports;

(4) A system of surveillance and reporting to give responsible Federal and State agencies the earliest possible notice of discharges of oil and hazardous substances or imminent threats of such discharges.

(5) Establishment of a national center to provide for coordination and direction of operations in carrying out the plan;

(6) Procedures for identifying, containing, dispersing, and removing oil and hazardous substances;

(7) A schedule, prepared in cooperation with the states, identifying any dispersants or other chemicals that may be used in carrying out the plan;

(8) A system for reimbursing states for reasonable costs incurred in removing discharges;

(9) A procedure for coordinating scientific support of cleanup operations, assessment of damage after a spill, and research efforts; and

(10) A system for referral and appeal of decisions of the Regional Response Teams and On-Scene Coordinators.

§ 1510.3 Scope.

(a) The plan applies to all Federal agencies and is in effect for the navigable waters of the United States and adjoining shorelines, for the contiguous zone, and the high seas beyond the contiguous zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), (See sections 311(b)(1) and 502(7) of the Clean Water Act).

(b) Implementation of this plan is complementary to the Joint U.S./Canadian Contingency Plan (including the annexes pertaining to the Great Lakes, and the Eastern and Western coastal areas); the Joint U.S./Mexican Contingency Plan (when adopted by both parties); and international assistance plans and agreements, security regulations, and responsibilities based upon Federal statutes and Executive Orders. This plan shall be utilized to coordinate U.S. involvement in pollution incidents occurring in waters not under the management jurisdiction of the United States.

§ 1510.4 Abbreviations.

(a) *Department and Agency title abbreviations:*

CEQ—Council on Environmental Quality.
Corps—U.S. Army Corps of Engineers.
DHEW—Department of Health, Education, and Welfare.
DOC—Department of Commerce.
DOD—Department of Defense.
DOE—Department of Energy.
DOI—Department of the Interior.
DOJ—Department of Justice.
DOL—Department of Labor.
DOS—Department of State.
DOT—Department of Transportation.
EPA—Environmental Protection Agency.
FEMA—Federal Emergency Management Agency.
FWS—U.S. Fish and Wildlife Service.
MarAd—Maritime Administration.
NMFS—National Marine Fisheries Service.
NOAA—National Oceanic and Atmospheric Administration.
USCG—U.S. Coast Guard.

USDA—Department of Agriculture.
USGS—U.S. Geological Survey.
USN—U.S. Navy.

(b) *Operational title abbreviations:*

ERT—Environmental Response Team.
NRC—National Response Center.
NRT—National Response Team.
OSC—On-Scene Coordinator.
PIAT—Public Information Assistance Team.
SSC—Scientific Support Coordinator.
RRC—Regional Response Center.
RRT—Regional Response Team.

§ 1510.5 Definitions.

(a) Act—means the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

(b) Activation—means notification by telephone or other expeditious means to the appropriate state and local officials, to the regional or district office of participating agencies, or, when required, the assembly of some or all members of the RRT or the NRT.

(c) Coastal waters—generally means U.S. waters which are navigable by deep draft vessels, including the contiguous zone and parts of the high seas to which this plan is applicable and other waters subject to tidal influence.

(d) Contiguous Zone—means the zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, which is contiguous to the territorial sea and which extends 12 miles seaward from the same baseline from which the territorial sea is measured.

(e) Discharge—includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil or hazardous substances. Discharges permitted under section 301, 302, 306, 318, 402 or 404 of the Act or section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. No. 92-532) are not included.

(f) Hazardous substance—means any substance designated as hazardous under subsection (b)(2) of section 311 of the Act (see 40 CFR Part 116).

(g) Inland waters—generally means U.S. waters upstream from coastal waters.

(h) Major disaster—means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, drought, fire or other catastrophe in the United States which the President determines to be damaging enough to warrant major disaster assistance under the Disaster Relief Act of 1974 (Pub. L. 93-288).

(i) Presidential Emergency Determination—a formal Presidential decision made at the request of a State Governor determining that a situation constitutes an "emergency" in accordance with the provisions of the Disaster Relief Act of 1974 (Pub. L. 93-288).

(j) Oil—means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(k) On-Scene Coordinator (OSC)—means the Federal official predesignated by the EPA or the USCG to coordinate and direct the Federal response to spills, and discharge removal efforts at the scene of a discharge.

(l) Phases—response actions fall into five classes or phases. Phase I is Discovery and Notification; Phase II, Evaluation and Initiation of Action; Phase III, Containment and Countermeasures; Phase IV, Removal, Mitigation and Disposal; and Phase V, Documentation and Cost Recovery. Elements of any phase may coincide with other phases. For a full description of the phases, see Subpart E, § 1510.51-55.

(m) Plan—means the National Oil and Hazardous Substances Pollution Contingency Plan.

(n) Potential discharge—means any accident or other circumstance which constitutes a substantial threat of a discharge of oil or hazardous substance. Severity of potential discharges shall be classified according to the guidelines in paragraph (r) of this section.

(o) Participating agencies—means all departments and agencies on the NRT that have responsibility and provide resources for the effective operation of this plan.

(p) Public health or welfare—includes all factors affecting human health and welfare, including, but not limited to, human health, the natural environment, fish, shellfish, wildlife, and public and private property, shorelines and beaches.

(q) Remove or removal—means the removal of oil or hazardous substances from the water and shorelines or taking necessary actions to minimize or mitigate damage to the public health or welfare. Under this plan, removal refers to Phase III and IV response operations.

(r) Size classes of discharges—The following classifications are provided as guidance for the OSC and serve as the criteria for the actions delineated in § 1510.63. They are not meant to imply associated degrees of hazard to the public health or welfare, nor are they a measure of environmental damage. Any discharge that poses a substantial threat to the public health or welfare, or results in critical public concern shall be classed as major discharge regardless of the following quantitative measures.

(1) Minor discharge—means a discharge to the inland waters of less than 1000 gallons of oil; or a discharge to the coastal waters of less than 10,000 gallons of oil; or a discharge of a hazardous substance in a quantity less than that defined as reportable by regulation (40 CFR Part 117).

(2) Medium discharge—means a discharge of 1,000 to 10,000 gallons of oil to the inland waters; or a discharge of 10,000 gallons to 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance equal to or greater than a reportable quantity as defined by regulations (40 CFR Part 117).

(3) Major discharge—means a discharge of more than 10,000 gallons of oil to the inland waters; or more than 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance that poses a substantial threat to the public health or welfare, or results in critical public concern.

(s) United States—means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Subpart B—Policy and Responsibility

§ 1510.21 Federal responsibility.

(a) This plan seeks to insure a coordinated Federal response at the scene of a discharge, or a potential discharge of oil or hazardous substance that poses a threat to the public health or welfare. In the event of a discharge, the Federal OSC shall first promptly determine (under section 311(c)(1) of the Act) whether the person responsible for the discharge is taking proper action to remove the discharge or threat of discharge. If practicable, the OSC shall make the person responsible aware of his financial responsibility. If the OSC determines that the person responsible is taking proper action, the OSC shall monitor progress and provide advice. If the person responsible does not act promptly or fails to take proper removal actions, or if the person responsible is unknown, or if a potential discharge is considered to exist, further Federal response actions shall be undertaken promptly in accordance with this plan.

(b) Removal actions taken under section 311(c)(1) of the Act are limited to the areas described in § 1510.3(a) (Scope of Plan). When a discharge or potential discharge that poses a threat to U.S. waters, occurs outside the plan's jurisdiction, the procedures of this plan and those of regional and local plans apply to the extent practicable; removal will take place under other legal authorities.

(c) In accordance with section 311(d) of the Act, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a discharge or an imminent discharge of large quantities of oil or a hazardous substance from a vessel, the United States may:

(1) Coordinate and direct all public and private efforts for the removal or elimination of the threat; and

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the ex-

penditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this plan.

(d) When the Administrator of EPA or the Secretary of the Department in which the Coast Guard is operating determines there is an imminent and substantial threat to the public health and welfare because of an actual or threatened discharge of oil or hazardous substance into or upon the waters of the United States from any onshore or offshore facility, he may require, through the Attorney General, that the U.S. Attorney of the district in which the threat occurs secure the relief necessary to abate the threat. The NRT may request EPA or the USCG to exercise this authority. The action described here is in addition to any other actions taken by a state or local government for the same purpose.

(e) Federal agencies with facilities or other resources which may be useful in a Federal response situation will make those facilities or resources available for use in accordance with this Plan and the regional and local plans. Federal resources shall be made available to the extent possible, consistent with agencies' operational requirements, within the limits of existing statutory authority, and within the spirit of the President's and the Congress intent to minimize discharges and their effects.

(f) Environmental pollution control techniques shall be employed in accordance with applicable regulations and guidelines, and regional and local contingency plans. In any circumstances not covered by regulations, the use of chemicals shall be in accordance with Annex X and must have the concurrence of the EPA representative or alternate representative on the RRT. In the absence of the EPA representative or alternate, the concurrence of the appropriate EPA regional administrator must be obtained.

(g) Response actions to remove discharges originating from Outer Continental Shelf Lands Act operations shall be in accordance with the August 1971 Memorandum of Understanding between DOI and DOT concerning respective responsibilities under this Plan.

(h) Discharges of radioactive materials shall be handled pursuant to the Interagency Radiological Assistance Plan which is administered by the Department of Energy.

§ 1510.22 Duties of Federal agencies.

(a) Each of the participating Federal agencies has duties established by statute, Executive Order, or Presidential directive which may be relevant to the Federal response to a pollution discharge. See Annex IV for a description of applicable legal authorities. Regional contingency plans shall call upon agencies to discharge these duties in a coordinated manner. They shall provide for:

(1) Identification of the statutory responsibilities of all agencies involved;

(2) Prompt notification of agency representatives in the event of a threatened or actual oil or hazardous substances spill;

(3) Designation of agency representatives to assist OSCs in developing local contingency plans; and

(4) Coordination of agency representatives with the OSC during a pollution incident (see § 1510.36(a)(3)).

(b) The following Federal agencies have specific duties and responsibilities which are relevant to a response to discharges of oil or hazardous substances:

(1) The Council on Environmental Quality is responsible for preparing, publishing, revising and amending the National Contingency Plan. The NRT will advise CEQ on necessary changes to the Plan and CEQ shall insure that any disagreements among participating agencies are expeditiously settled.

(2) The Department of Agriculture provides expertise in managing agricultural, forest, and wilderness areas and in selecting landfill disposal sites. The Soil Conservation Service can provide to the OSC predictions of the effects of pollutants on soil and their movements over and through soil.

(3) The Department of Commerce, through NOAA, shall provide scientific expertise on living marine resources for which it is responsible, including endangered species and marine mammals (see § 1510.36(a)(3)); coordinate scientific support, provide current and predicted meteorologic, hydrologic, ice and oceanographic conditions for the high seas, coastal, and inland waters; provide charts and maps, including tide and current information, for coastal and territorial waters and the Great Lakes; and assist EPA in damage assessment in coastal areas and on the high seas. When requested by NRT, DOC through MarAd will provide advice on the design, construction and operation of merchant ships.

(4) The Department of Defense, consistent with its operational requirements, may provide assistance in maintaining navigation channels, in the removal of navigation obstructions, and in salvage. Upon request of the OSC, NRT, or USCG, the services and special equipment of the Supervisor of Salvage, USN will be provided as available for the cleanup and control of oil spills. Upon request from the OSC, locally deployed Navy equipment may be provided.

(5) The Department of Energy administers, implements, and coordinates the Interagency Radiological Assistance Plan (IRAP). DOE will advise the NRT when assistance is required in identifying the source and extent of radioactive contamination, and in the removal and disposal of radioactive discharges.

(6) The Department of Health, Education, and Welfare is responsible for providing expert advice and assistance on discharges or potential discharges that pose a threat to public health and safety.

(7) Federal Emergency Management Agency participates in the development and evaluation of national, regional, and local oil and hazardous substance pollution contingency plans in accordance with Executive Order 12148, Section 2-1; monitors responses related to such plans in accordance with Executive Order 12148, Section 2-2; and evaluates State Governors' requests for Presidential declarations of major disasters or determinations of emergency under Pub. L. 93-288 (42 U.S.C. 4401 et seq.), the Disaster Relief Act of 1974.

(8) The Department of Interior, through the USGS, can provide expertise in the fields of oil drilling, producing, handling, and transportation by pipeline. The USGS supervises continuously manned facilities which can be used for command, control and surveillance of discharges occurring from operations conducted under the Outer Continental Shelf Lands Act. The Bureau of Mines may provide analytical facilities which in an emergency could be of aid in identifying inorganic hazardous substances. Through its pollution response coordinators, the Fish and Wildlife Service of DOI will provide technical expertise to the OSC and RRT on fish and wildlife and their habitats, including migratory birds, marine mammals, and endangered and threatened plants and animals (See § 1510.36(a)(3)). DOI is responsible for implementing this plan in American Samoa and the Trust Territory of the Pacific Islands when required.

(9) The Department of Justice can provide expert advice on complicated legal questions arising from discharges and Federal agency responses.

(10) The Department of Labor, through the Occupational Safety and Health Administration, will provide the OSC with advice, guidance, and assistance regarding hazards to persons involved in removal or control of oil or chemical spills, and in the precautions necessary to prevent hazards to their health and safety.

(11) The Department of Transportation provides expertise on all modes of transporting oil and hazardous substances. Through the USCG, DOT offers expertise in the domestic/international fields of port safety and security, marine law enforcement, ship navigation and construction, and the manning, operation, and safety of vessels and marine facilities. The USCG also maintains continuously manned facilities which can be used for command, control, and surveillance of oil discharges occurring on the waters of the United States or the high seas. For those areas where it provides the OSC, the USCG chairs the RRT

which develops, implements, and revises the regional and local contingency plans as necessary.

(12) The Department of State will lead in developing joint international contingency plans. It will also help to coordinate an international response when pollution discharge crosses international boundaries or involves foreign flag vessels. Additionally, this Department will coordinate requests for assistance from foreign governments and U.S. proposals for conducting research at incidents that occur in waters of other countries.

(13) The Environmental Protection Agency provides expertise on environmental effects of pollution discharges and environmental pollution control techniques. EPA will also advise the RRT and OSC on what degree of hazard a discharge poses to the public health and safety, and will coordinate scientific support, including assessment of damages, in the inland regions. For those areas where it provides the OSC, EPA chairs the RRT which develops, implements, and revises regional and local contingency plans as necessary. EPA will coordinate with USCG in the preparation of regional and local contingency plans for pollution control and protection of the environment.

(c) All Federal agencies are responsible for minimizing the possibility of discharges; for developing the capability to respond promptly to discharges from facilities they operate or supervise; and for making resources available for Federal pollution response operations.

(d) In addition to their general responsibilities under paragraph (c) of this section, participating agencies are responsible for:

(1) Leading all Federal agencies in programs to minimize environmental damage associated with discharges from facilities they operate or supervise;

(2) Providing representation as necessary to the NRT and RRTs, and giving assistance to the RRTs and OSCs in formulating regional and local contingency plans;

(3) Developing the operating capability in their particular areas of expertise for a rapid response to any pollution discharge in coordination with other Federal agencies;

(4) Making necessary information available to the NRT, RRT, or OSC; and

(5) Informing the NRT and RRTs (consistent with national security considerations) of changes in the availability of resources that would affect the operation of this plan.

§ 1510.23 Non-Federal participation.

(a) Every State Governor is asked to assign an office or agency to represent the State on the RRT. The State's representative should participate fully in all facets of RRT activities and shall designate the element of the State government that will direct state supervised discharge removal operations. Participation of officials from municipalities with major ports and waterways is also invited in the RRT. (See § 1510.34(f).)

State and local government agencies are encouraged to include contingency planning for discharge removal in all emergency and disaster planning. Federal local contingency plans required by this plan shall be coordinated with plans developed by state and local governments. This is especially important for traffic control, land access, and disposal of pollutants in removal operations.

(b) States, industry groups, academic organizations, and others are encouraged to commit resources for removal operations. Specific commitments shall be listed in Federal regional and local contingency plans. EPA and the USCG should explore the possibility of concluding memoranda delegating responsibility to concerned States for cleanup of certain spills. Details on reimbursement to states for removal actions taken under to this plan are contained in § 1510.65 and 33 CFR Part 153.

(c) It is particularly important to coordinate the technical information generated by scientists from the Federal and State governments, from industry, universities, and elsewhere to assist the OSC in developing cleanup strategies in environmentally sensitive areas; to assist in the performance of post spill damage assessments; and to assure that pertinent research will be undertaken to meet national needs. The scientific support aspect of this plan is described in § 1510.64.

(d) Federal local contingency plans should establish procedures to allow for well-organized and worthwhile employment of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, local or state officials knowledgeable in contingency operations and capable of providing leadership. Local plans should also identify specific areas in which volunteers can best be used such as: beach surveillance, logistical support, bird and wildlife treatment, and scientific investigations. Normally, volunteers should not be used for physical removal of pollutants. If the substance discharged is toxic to humans, or if in the judgment of the OSC other dangerous conditions exist, volunteers shall not be permitted at on-scene operations. Regional and local contingency plans should provide for routine education and training of volunteers so that training during an actual incident will not be necessary. Information on discharge and removal efforts should be provided to volunteers frequently during the course of planning to insure coordinated effort and meaningful participation.

Subpart C—Organization

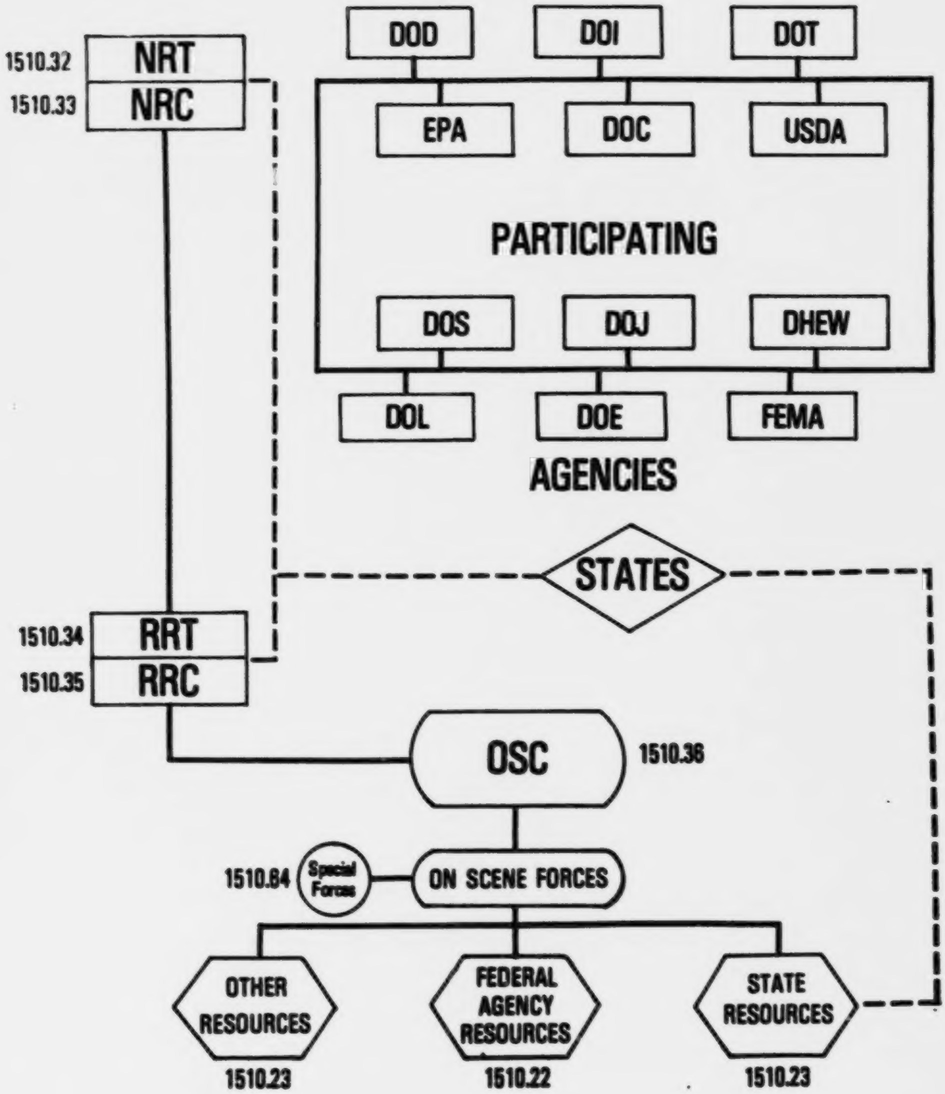
§ 1510.31 Emergency response activities and coordination.

(a) In a pollution emergency, the OSC is responsible for Federal on-scene coordination. The OSC provides reports to and receives advice from the RRT charged with regional coordination. The RRT is composed of representatives from the regional and district offices of the participating agencies, States, and local governments.

(b) National coordination is accomplished through the NRT which receives reports from and provides guidance and advice to the RRTs. Activities are coordinated through the facilities of the national and regional response centers.

(c) The organization of this plan is shown in Figure 1.

National Contingency Plan Concepts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FEDERAL AGENCY RESOURCES
1510.22
STATE RESOURCES
1510.23

Figure 1

§ 1510.32 National Response Team.

(a) The NRT consists of representatives from the participating agencies. It is the national body for planning and preparedness before a pollution discharge and for coordination and advice during a discharge. Each participating agency shall designate a member to the team and sufficient alternates to insure representation.

(b) Except for periods of activation because of a pollution incident, the representative of EPA shall be the chairman and the representative of DOT shall be vice-chairman of the NRT. The vice-chairman shall maintain records of NRT activities along with national, regional and local plans for pollution response. When the NRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area in which the response is taking place.

(c) NRT meetings are open to the public. Upon invitation of the chairman and with the consent of members, non-government observers may participate without vote in any meeting of the NRT on matters of their direct concern. They shall be provided with reports issued by the NRT. Invitations to participate shall be given to a non-Government organization if:

(1) The organization can reasonably be expected to make a significant contribution to the work of the team;

(2) The organization's work, past and present, has a direct relationship to the work of the team; and

(3) The organization is not represented at the NRT through another organization.

(d) Normally, when the NRT is not activated for a pollution incident, it shall serve as a standing committee to evaluate the preparedness of the agencies and effectiveness of plans for responding to pollution discharges, to recommend needed policy changes in the response organization, and to recommend revisions to this plan as needed.

(e) The NRT shall consider and make recommendations to appropriate agencies on the training and equipping of response teams; necessary research, development, demonstration, and evaluation to improve response capabilities; and equipment, material stockpiling, and other operational matters as the need arises. CEQ shall be advised of any agency's failure to respond adequately to these recommendations.

(f) The NRT shall recommend revisions of this plan to CEQ for approval and publication.

(g) Scientific advisors shall be designated, from EPA, DOC-NOAA, and DOI-FWS, to advise the NRT on scientific matters related to pollution response, and to coordinate and oversee the regional scientific support mechanism (see § 1510.64). They shall also evaluate and advise the NRT on the desirability of carrying out research affecting waters and resources not under the jurisdiction of the United States.

(h) The NRT shall establish and maintain a Research and Development Committee to:

(1) Provide the latest information on Federal agencies' research, development, and demonstration activities for spill response and cleanup;

(2) Respond to NRT requests for scientific and technical information;

(3) Identify appropriate research and development initiatives;

(4) Provide for information exchange between agencies on response research, development, and demonstration projects. The committee shall report to the NRT at the June and December meetings and at other times upon request.

(i) Ad hoc committees may also be established from time to time. Representatives from the participating agencies with direct involvement in such committees' charters shall serve on these committees.

(j) Planning and preparedness responsibilities of the NRT are to:

(1) Make a continuing review of regional responses to pollution incidents, with an evaluation of equipment readiness and coordination among responsible public agencies and private organizations.

(2) Consider necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents;

(3) Develop procedures to ensure the coordination of Federal, state, local government, and private responses to pollution incidents;

(4) Review regional plans and reports of activities from RRTs, and make sure that RRTs are functioning satisfactorily.

(5) Inform the Research and Development Committee on research requirements identified during discharges of unusual materials or under unique circumstances;

(6) Review continuously and act upon reports by the Research and Development Committee;

(7) Maintain readiness to respond to a nationally significant discharge of oil or hazardous substances;

(8) Monitor incoming reports from all RRTs and activate the NRT for a pollution incident when appropriate; and

(9) Meet monthly or more frequently to review pollution emergency response actions of the preceding period, receive reports from the R&D Committee and ad hoc committees. Information on the time and place of meetings may be obtained from the National Response Center (see § 1510.33).

(k) The NRT shall be activated as an emergency response team when requested by any team representative or when a discharge:

(1) Exceeds the response capability of the region in which it occurs;

(2) Transects regional boundaries; or

(3) Involves significant population hazards or national policy issues, substantial amounts of property, or substantial threats to natural resources.

When acting as an emergency response team, the NRT shall consist of representatives from the participating agencies. Each representative or an appropriate alternate shall be notified immediately by telephone of the emergency activation of the NRT.

(l) When activated for a pollution incident the NRT shall meet at the call of the chairman and shall:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT, actions to combat the discharge;

(2) Request other Federal, state, and local governments, or private agencies to consider providing resources under their existing authorities to combat a discharge of monitor response operations;

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts; and

(4) Prepare public information releases and transfer information between the OSC and the Washington, D.C., headquarters of the agencies concerned. Public information is discussed in § 1510.37.

(m) The NRT shall consider any matter referred to it for settlement by an RRT or OSC when the matter cannot be resolved at regional level on an interagency basis. Unless circumstances dictate otherwise, further actions will not be taken on matters thus referred to NRT until the NRT position has been transmitted to the RRT and OSC. Any member of an RRT may petition the NRT for a review of matters considered by the RRT. Petitioning RRT members may appear before the NRT to present their arguments but shall not have the right to vote in NRT deliberations on the disputed matter. While the NRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable through normal debate or discussion. In such cases, each cabinet department or independent agency serving as a participating agency on the NRT shall be accorded one vote in NRT proceedings.

§ 1510.33 National Response Center.

(a) The NRC is the national communications center for activities related to pollution incidents. It is located at the Washington, D.C., Headquarters of the USCG. Notice of discharges should be made through a toll free number, a special local number, or through telephone and teletype circuits. (Details appear below and in Annex V.) The NRC relays notices of discharge to the appropriate OSC. It disseminates OSC and RRT reports to the NRT when appropriate. It provides facilities for the NRT to use in coordinating a national pollution emergency response when required.

(b) The Commandant, U.S. Coast Guard, shall provide the necessary communications, plotting facilities, and equipment. These will include:

(1) A continuously manned communication center for receiving reports of discharges;

(2) Telephone branch lines;

(3) Teletypewriter circuits;

(4) The latest updated charts of the Departments of Commerce, Interior and Defense for the U.S. waters, the Continental Shelf and the ocean areas adjacent to the U.S. Territorial waters;

(5) Technical library on oil and hazardous substances pollution (described in Annex VII); and

(6) Plotting and display facilities to depict the geographic position, movement, and extent of the discharge.

(c) The USCG shall furnish technical manuals and materials, and necessary administrative support to operate the NRC effectively and efficiently.

(d) Participating agencies may use normal communication circuits to fulfill their responsibilities under the Plan. Telephone numbers for the primary notification offices of interested agencies will be maintained in NRC and in RRCs.

(e) First notice of a pollution discharge shall be made immediately (in accordance with 33 CFR 153.203) either to the NRC Duty Officer, HQ USCG, Washington, D.C., toll free telephone (800) 424-8802 (or 426-2675 in the Washington, D.C., local calling area), or to the predesignated OSC (see Annex III). All notices of discharges received at the NRC shall be relayed immediately by telephone to the OSC. The NRC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations.

(f) Pollution Reports (POLREPS) shall be submitted by the RRT to the NRC as developments occur and not later than 1600 local time on each day of a pollution response operation. Pollution Reports shall be disseminated by the NRC to NRT members as requested by those members.

§ 1510.34 Regional Response Team.

(a) The RRT serves as the regional body for planning and preparedness actions before a pollution discharge and for coordination and advice during a pollution discharge. The RRT consists of regional representatives of the participating agencies, state, and local government representatives as appropriate. The full participation of high level representation from States and local governments with major ports and waterways is desired. (See §§ 1510.23(a) and 1510.34(f).)

(b) Except when the RRT is activated for a pollution incident, the representatives of EPA and DOT shall act as co-chairmen. When the RRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area of the spill and the response.

(c) Each participating agency shall designate one member and at least one alternate member to the RRT. Participating States and local governments should also designate one member and at least one alternate member to the team. Agencies may also provide additional representatives as observers to meetings of the RRT. Persons representing Federal and State agencies shall be specified in each regional contingency plan.

(d) RRT members shall designate representatives from their agencies to work with OSCs in developing local contingency plans, providing for the use of agency resources, and in responding to pollution incidents.

(e) The chairman of RRT shall ensure that the regional and local contingency plans adequately provide the OSC with assistance from the Federal agencies commensurate with agencies' resources, capabilities and responsibilities within the region. During a pollution emergency, the members of the RRT shall insure that the resources of their agencies are made available to the OSC as specified in the regional and local contingency plans.

(f) Affected states are encouraged to participate actively in all RRT activities (see § 1510.23(a)), to designate representatives to work with the RRT and OSC's in developing regional and local plans, plan for and make available State resources, and serve as the contact point for coordination with local government agencies in responding to pollution incidents. When the RRT is activated for a pollution emergency, affected States are invited to participate in all RRT deliberations. Any State or local government representative who participates in the RRT has the same status as any Federal member of the RRT.

(g) When not activated for a pollution incident, the RRT serves as a standing committee to recommend needed policy changes in the regional response organization, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for the Federal response to pollution incidents. The RRT shall:

(1) Make a continuing review of regional and local responses to pollution incidents, considering equipment readiness and coordination among re-

sponsible public agencies and private organizations;

(2) Recommend revisions to this National Contingency Plan to the NRT, on the basis of observations of response operations;

(3) Consider and recommend necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents;

(4) Develop procedures to insure the coordination of Federal, State, local government, and private responses to pollution incidents;

(5) Review the functioning of OSCs to insure that local contingency plans are developed satisfactorily;

(6) Be prepared to respond to a major discharge of oil or hazardous substances outside its region;

(7) Monitor incoming reports from all OSCs and activate the RRT when appropriate; and

(8) Meet quarterly to review response actions carried out during the preceding period, and consider changes in both regional and local contingency plans. In those regions having both coastal and inland RRTs, RRT meetings held in alternating quarters (inland in March, coastal in June, etc.) would meet this requirement.

(9) RRTs shall provide letter reports on their activities to the NRT twice a year, no later than 31 January and 31 July. The reports will help to identify techniques and procedures that have worked well and subjects requiring improvement and should be circulated to other RRTs. At a minimum, reports will contain paragraphs covering:

(i) *Summary of activities,* containing highlights of routine meetings and activations during the reporting period;

(ii) *Organizational matters,* outlining improvements made since the last report. Organizational matters requiring NRT action should be included. RRTs are encouraged to add detailed accounts of successful procedures;

(iii) *Operations,* including recommendations, comments or observations on response methods, equipment, training or other operational matters which have not been addressed in the review of OSC reports.

(h) Each coastal RRT is required to conduct an annual training exercise in which response equipment is actually deployed. These exercises should use all existing capabilities in the local port area. Any funding required to support the exercise should be requested through the normal agency budget process. The RRT shall cooperate to the fullest extent possible in field exercises of member agencies.

(i) RRTs for inland regions are strongly encouraged to conduct an annual training exercise in which response equipment is actually deployed. RRTs for inland regions shall cooperate to the fullest extent possible in field exercises of member agencies.

(j) The RRT shall be activated as an emergency response team when a discharge:

(1) Exceeds the response capability available to the OSC in the place where it occurs;

(2) Transects regional boundaries; or

(3) Poses a substantial threat to the public health and welfare or to regionally significant amounts of property. Regional contingency plans shall specify detailed criteria for activation of RRTs.

(k) The RRT shall be activated automatically in the event of a major or potential major discharge. The RRT may be activated during any other pollution emergency by an oral request from any RRT representative to the chairman of the Team. Requests for Team activation shall later be confirmed in writing. Each representative, or an appropriate alternate, shall be notified immediately by telephone when the RRT is activated. POLREPS to the NRC from RRTs shall include the time of Team activation, method of activation (e.g., telephone) and place of assembly (if appropriate).

(l) When activated for a pollution incident, agency representatives shall meet at the call of the chairman and shall:

(1) Monitor and evalute reports from the OSC. The RRT shall advise the OSC on the duration and extent of Federal response and may recommend to the OSC specific actions to combat the discharge;

(2) Request other Federal, state or local government, or private agencies to consider providing resources under their existing authorities to combat a

discharge or monitor response operations;

(3) Help the OSC prepare information releases to the public and for communication with the NRT. Public information is discussed in § 1510.37;

(4) Advise the regional head of the agency providing the OSC if the circumstances or progress of a pollution discharge indicate that a different OSC should be designated; and

(5) Submit Pollution Reports (POLREPS) to the NRC as developments occur and not later than 1600 local time of each day of the operation.

(m) Whenever insufficient national policy guidance exists on a matter before the RRT, or there is a question concerning the interpretation of national guidance, the matter shall be referred to the NRT for resolution. Time permitting, further actions will not be taken on such issues until the NRT has transmitted a position to the OSC and RRT. Should the matter directly affect a State or local government, the RRT representatives of the affected governments may express their position to the NRT.

(n) If any member of the RRT dissents from a decision of the RRT on a discretionary action pursuant to the Plan, or an interpretation of the plan, that member may appeal the decision to the NRT in accordance with § 1510.32(m). The dissenting member shall notify the chair of the NRT of its appeal. During a major pollution discharge, a member who has pursued an appeal to the NRT may request further review by CEQ.

(o) Any State or local government representative who participates in the RRT has the same status as any Federal member of the RRT. Although it is preferable that RRT's reach consensus views, there may be occasions when a vote is necessary. On those occasions, each Federal cabinet level or independent agency, the directly affected State, and the directly affected local government shall be accorded one vote only.

(p) The RRT shall be deactivated by agreement between the EPA and USCC team members. The time of deactivation shall be included in POLREPS.

(q) Boundaries for regional contingency plans shall follow those of the Standard Regions for Federal Administration as shown in Annex III. Boundaries for local contingency plans shall coincide with those agreed upon between EPA and the USCG to determine OSC areas of responsibility and shall be clearly indicated in the regional contingency plan.

§ 1510.35 Regional Response Center.

The RRC is the regional center for pollution response activities. Each regional plan shall specify quarters for the RRC. The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating the response to pollution incidents.

§ 1510.36 On-Scene Coordinator.

(a) The OSC shall direct Federal pollution control efforts and coordinate all other Federal efforts at the scene of a discharge or potential discharge. The OSC shall be predesignated, as part of the planning and preparation for response to pollution incidents, by the regional or district head of the agency responsible for providing the OSC.

(1) The first official from an agency with responsibility under this plan to arrive at the site of a discharge shall coordinate activities under the plan until the OSC arrives.

(2) The OSC shall collect pertinent facts about discharge, such as potential impacts on human health and welfare; the nature, amount, and location of discharged materials; the probable direction and time of travel of discharged materials, the natural resources, including fish and wildlife and their habitat, and property which may be affected and the priorities for protecting them.

(3) The OSC shall direct Phase II, Phase III and Phase IV operations; that is, evaluation and initiation of action, containment and countermeasures; and removal, mitigation and disposal (see Subpart E, §§ 1510.51 through 1510.55 for descriptive details). Advice provided by the EPA on the use of chemicals in Phase III and Phase IV operations shall be binding

on the OSC, except as provided in Annex X of this plan. Advice provided by the Fish and Wildlife Service (DOI) or by the National Oceanic and Atmospheric Administration (DOC) on cleanup actions that may affect endangered and threatened species or their habitats shall be considered at all times and shall be binding on the OSC unless in his judgment actions contrary to this advice must be taken to protect human life.

(4) The OSC shall provide necessary support and documentation for Phase V activities (Documentation and cost recovery).

(5) The OSC will consult regularly with the RRT in carrying out this plan and will keep the RRT fully informed of all activities under the plan.

(b) EPA and the USCG shall designate OSCs for all areas in each region. The EPA shall furnish or provide OSCs for inland waters. The USCG shall furnish or provide OSCs for the coastal waters, and for Great Lakes waters, ports and harbors.

(c) All Federal agencies are required by Executive Order to develop emergency plans and procedures for dealing with oil and hazardous substances spills caused by facilities or vessels under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that will coordinate response actions for spills caused by facilities or vessels under their jurisdiction and for providing means to remove or mitigate such spills in accordance with this Plan and applicable Federal regulations and guidelines. If the responsible Federal agency does not act promptly or take appropriate action, to respond to a spill caused by a facility or vessels under its jurisdiction, the EPA or USCG (depending on the area where the discharge occurs) shall assume the OSC functions.

(d) The OSC is responsible for developing and maintaining a local contingency plan (Federal local plan) for the Federal response in the area of the OSC's responsibility. Designated Federal, State, and local representatives to the RRT shall assist in these efforts. (See § 1510.42.)

§ 1510.37 Public information network.

(a)(1) When a major pollution incident occurs, it is imperative to give the public prompt, accurate information on the nature of the discharge and actions underway to mitigate the damage. Those immediately capable, especially local fire, police and governmental officials, will be contacted first so they may use all available resources to notify the public of a potential threat. Prompt disclosure of the facts helps to encourage cooperation by interested parties and to check the spread of misinformation. National administration policy and the Freedom of Information Act both call for maximum disclosure of information.

(2) If a participating agency believes public interest warrants the issuance of statements or releases and the on-scene or national news offices have not been activated, the affected agency should recommend activation. In the interim, all news releases or statements issued by participating agencies concerning the incidents will be cleared through the OSC.

(b) When the NRT is activated, the Team chairman will contact the most appropriate agency and ask it to detail a professional information officer to establish and direct a national news office. Whenever possible, the director of the national news office shall be provided by the same agency providing the OSC. Requests by the director of the national news office for an appropriate number of professional and clerical assistants will be met by one or more of the participating agencies.

(1) The director of the national news office will be responsible for overall supervision of public information activities of the NRT. The closest possible coordination will be maintained between the national news office in Washington and the on-scene news office.

(2) Promptly after his designation, the director of the national news office will contact the White House Press Office and the Office of Governmental and Public Affairs to arrange whatever information assistance may be required by these offices.

(3) All national news office news releases will be cleared by the chairman

of the NRT, or in his absence, the vice-chairman.

(4) The Director of the national news office will have free access to meetings of the NRT and will be consulted on the possible public reaction to the courses of action under consideration by the NRT.

(5) At appropriate intervals, the director of the national news office may arrange news conferences at which the NRT will respond to questions from the media representatives.

(6) The director of the national news office will keep appropriate nationally-based press offices posted on developments. These include the press offices of the secretaries or directors of the participating agencies; Senators and Representatives whose States or districts are affected by the incident.

(7) The national news office will be provided with adequate space, telephones, typewriters, communications equipment and other supplies by the U.S. Coast Guard at U.S. Coast Guard Headquarters, Washington, D.C. The director of the national news office will determine what equipment and supplies are needed to insure an orderly flow of information and to accommodate visiting members of the news media.

(c) An on-scene news office will be established upon the request of any agency participating on the RRT or the OSC to coordinate media relations and issue official Federal information on a pollution incident. The office will be staffed according to regional plans and applicable agency directives. Whenever possible, the on-scene news office will be headed by a representative of the agency providing the OSC. Any participating agency may, by request to the RRT, place a representative on the staff of the news office. The OSC shall determine location of the on-scene news office but every effort should be made to locate it near the scene of the pollution incident.

(1) The director of the on-scene news office shall coordinate all public information activities for the OSC. The director's functions include:

(i) Arranging news conferences for the OSC and other officials to make progress reports and respond to questions;

(ii) Keeping local and regional government officials informed of the pollution situation through contacts with their press offices or other representatives;

(iii) Keeping news media informed about the response effort and giving them as much cooperation as possible, for example, by arranging transportation to the scene of a pollution incident when possible;

(iv) Issuing and distributing daily news releases so long as public interest warrants;

(v) Giving citizens who make inquiries up-to-date information from the latest press release;

(vi) Observing public reaction to the pollution incident and advising the OSC of any actions that might better serve public information interests;

(vii) Handling queries from public and commercial interests properly and promptly;

(viii) Referring salesmen to technical personnel assigned to evaluate their wares;

(ix) Upon request, offering special public information services for official visitors, including notifying the news media of the time, place and purpose of official visits; making press conference arrangements; and arranging for interviews;

(x) Informing the public on the proper way to deal with individual problems and damages from the pollution incident; and

(xi) If necessary, drafting a model letter for participating agencies to use in answering mail inquiries, after the crisis has subsided. The model letter must be approved by the Chairman of the NRT.

(2) It is important for the on-scene news office to describe accurately in news releases each agency's contribution to the response effort, and to make sure that the various agencies assisting the OSC are represented at press conferences.

(3) Each OSC and supporting district or regional office must establish contacts and a working relationship with the regional news media as part of preparation and planning before a pollution incident occurs.

(d)(1) A Public Information Assistance Team (PIAT) shall be available to help OSCs and agenies' regional offices meet the demands for public information during a major pollution incident or threatened incident. Team members will be trained in journalism, public relations, and photography, and will have a knowledge of pollution response techniques, equipment, and the laws and regulations relating to pollution incidents. PIAT will be based at U.S. Coast Guard Headquarters and can be requested through the NRC any time.

(2) If the NRT has not been activated, the PIAT can serve as a center for answering inquiries in Washington, D.C., upon request of the parent agency of the OSC.

Subpart D—Plans

§ 1510.41 Regional contingency plans.

(a) The RRTs shall develop regional contingency plans for each standard Federal region. The purpose of these plans is coordination of a timely, effective response to pollution incidents by various Federal agencies and other organizations. Regional contingency plans must have a broad scope. They must include information on all useful facilities and resources in the region, from government, commercial, academic and other sources. To the greatest extent possible, regional plans will follow the format of the National plan. An example of the desired format is in Annex II.

(b) Each region includes many scientists who can make significant contributions to the response activities of the OSC and RRT. Regional Scientific Support Coordinators (SSCs) shall organize and coordinate these scientists and their contributions to the greatest extent possible. SSCs with advice from RRT members, shall also develop the parts of the regional plan that relate to scientific support.

§ 1510.42 Local contingency plans.

(a) Each OSC if responsible for developing a local contingency plan for the Federal response in his area of responsibility (Federal local plans). The plan should provide for a well-coordinated response that allows integration of or compatibility with pollution response plans of local, State and non-Federal entities. The plan shall identify environmentally sensitive areas, the probable locations for pollution incidents, the kinds of resources required to respond to pollution incidents, where such resources can be obtained, plans of action for protecting vulnerable resources, methods and sites for disposal of recovered oil and hazardous pollutants consistent with local and state plans developed under the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), and a local structure for responding to pollution incidents. The Federal local plan shall be developed in concert with and shall be consistent with fire emergency and disaster plans prepared by State and local agencies. To the greatest extent possible, Federal local plans will follow the sample format in Annex II.

(b) While the OSC is responsible for developing Federal local plans, a successful planning effort depends upon the full cooperation of all agency representatives, and includes the development of local capabilities to respond to pollution incidents. Particular attention must be given, during the planning process, to developing a multiagency local response team for coordinating on-scene efforts. The RRT must ensure proper liaison between the OSC and local representatives of RRT members.

A National inventory of pollution response and support equipment (SKIM) has been developed to help OSCs and RRTs gain rapid access to resources during emergencies. This inventory is accessible through the NRC, remote data terminals at Coast Guard Districts and Marine Safety Offices, and Captain of the Port Offices. The inventory shall include privately or commercially owned equipment as well as government resources. Regional and local planners shall ensure that data in the system are current and accurate, so that OSCs can make full use of it during emergencies, with minimal delays in obtaining needed resources. The Coast Guard is responsible for keeping the national inventory up to date with information from the regional offices of Federal agencies.

Subpart E—Operational-Response Phases

§ 1510.51 Phase I—Discovery and notification.

(a) A discharge or potential discharge may be discovered through: (1) A report submitted by a discharger in accordance with statutory requirements; (2) deliberate search by vessel patrols and aircraft; and (3) random or incidental observation by Government agencies or the public.

(b) A discharge or potential discharge discovered through deliberate search should be reported directly to the NRC. Reports of random discovery may be provided by fishing or pleasure boats, fire and police departments, telephone operators, port authorities, news media, or others. Such reports should be made to the NRC or the nearest USCG or EPA office. (See § 1510.33(e) and Annex III).

Regional and local plans shall provide for all reports to be channeled to the NRC, RRC, and appropriate State agency (as agreed upon with each State) as promptly as possible. Reports of major and medium discharges received by either EPA or USCG shall be expeditiously relayed by telephone to appropriate members of the RRT as specified by the regional contingency plan. Reports of minor discharges shall be exchanged between EPA and USCG as agreed to by the two agencies.

(c) The agency furnishing the OSC for a particular area is responsible for implementing Phase I activities in that area.

§ 1510.52 Phase II—Evaluation and initiation of action.

(a) The OSC shall ensure that a report of a discharge or potential discharge is immediately investigated. On the basis of all available information, the OSC shall: (1) Evaluate the magnitude and severity of the discharge or threat; (2) determine the feasibility of removal; and (3) assess the effectiveness of removal actions.

(b) When appropriate and as soon as possible after receipt of a report, the OSC shall advise the RRC of the need to initiate further Federal response actions. The actions may be no more than activation of the RRT, or a request for additional resources for further surveillance, or they may extend to Phase III or Phase IV containment or removal operations.

(c) The OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, advise the responsible party. If the responsible party does not then take proper actions, or if the discharger is unknown or is otherwise unavailable, the OSC shall, pursuant to section 311(c)(1) of the Act, take whatever actions are necessary to eliminate the threat or remove the pollutant.

§ 1510.53 Phase III—Containment and countermeasures.

Defensive actions should begin as soon as possible after a discharge or potential discharge is discovered. This phase may include actions to protect the public health and welfare such as: Analyzing water samples to determine the source and spread of the pollutants; procedures to control the source of discharge; measures to keep waterfowl and other wildlife away from the polluted area; damage control or salvage operations; placement of physical barriers to deter the spread of a pollutant; use of booms or barriers to protect specific installations or areas; control of the water discharged from upstream impoundments; and the use of chemicals and other materials, in accordance with Annex X, to restrain the spread of the pollutant and mitigate its effects.

§ 1510.54 Phase IV—Cleanup, mitigation and disposal.

(a) Actions should be taken to recover the pollutant from the water and affected shorelines. These actions include: The use of sorbents, skimmers and other collection devices for floating pollutants; the use of vacuum dredges or other devices for sunken pollutants; the use of reaeration or other methods to mitigate damage from dissolved, suspended, or emulsified pollutants; and special treatment techniques to protect public water supplies or fish and wildlife resources from continuing damage.

(b) Pollutants and contaminated materials recovered in cleanup operations shall be disposed of in accordance with regional and local contingency plans (see § 1510.42(a)).

§ 1510.55 Phase V—Documentation and cost recovery.

(a) Documentation and cost recovery may involve a variety of actions, depending on the discharge. Recovery of Federal removal costs and recovery for damage done to Federal, State, or local government property is included. Damages to private citizens (including loss of earnings) are not addressed by this plan. OSCs shall furnish documentation required by the revolving fund administrator to support Federal efforts to recover costs from responsible parties. Procedures to be followed to fulfill documentation requirements are specified in the Coast Guard directives in the 16450.1 series.

(b) Information and samples needed for legal and scientific purposes shall be collected during this phase. Information and samples are necessary for later identification of financially responsible parties, for scientific understanding of the environment, and for research and development. The samples and information must be gathered at the proper time during the removal operations, because otherwise wind and current may disperse the evidence.

(1) All agencies shall follow uniform procedures, described in Annex VI, for collection of samples and information.

(2) The OSC shall take necessary actions during response phases to ensure necessary collection and safeguarding of information, samples, and reports.

(c) The information and reports obtained by the OSC shall be transmitted to the RRC. Copies will then be forewarded to the NRC, members of the RRT, and others as appropriate.

§ 1510.56 Pollution reports.

(a) Within 60 days after the conclusion of a major pollution discharge and when requested by the RRT, the OSC shall submit to the RRT a complete report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSCs report and submit the report and an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations, based on these experiences, are a source for new procedures and policy.

(c) The format for OSC's reports will be as follows:

(1) *Summary of events.* This part is a chronological narrative of all events, including:

(i) The cause of the incident;

(ii) The initial situation;

(iii) The organization of the response; and

(iv) The resources committed.

These sections may be presented separately or included in the narrative. If applicable, the following information will also be included:

(v) The location (water body, State, city, latitude and longitude) of the spill; whether the discharge was in connection with activities regulated under the OCSLA or Deepwater Port Act; or whether it might have or actually did affect natural resources under the exclusive management authority of the United States;

(vi) Details of Federal or State efforts to replace or restore damaged natural resources; and

(vii) Details of any threat abatement actions taken under sections 311(c) or (d) of the Act.

(2) *Effectiveness of response and removal actions.* This part should candidly and thoroughly analyze the effectiveness of the response and removal actions taken by:

(i) The discharger;

(ii) State and local forces;

(iii) Federal agencies and special forces; and

(iv) (If applicable) contractors, private groups and volunteers.

(3) *Problems encountered.* This part should list any problems encountered and describe how they affected the response. Particular attention should be

given to any problems of intergovernmental coordination that may have occurred.

(4) *Recommendations.* This section should include all recommendations of the OSC. An endorsement from the RRT shall be included. At a minimum the following areas should be covered;

(i) Means to prevent a recurrence of the incident;

(ii) Improvement of response actions.

Any recommended changes in the regional or National contingency plans should also be included.

§ 1510.57 Special considerations.

(a) *Safety of personnel.* Actual or potential polluting discharges threatening damage to air and water can also threaten human health and safety. The OSC should be aware of the hazards, should exercise great caution in allowing civilian or government personnel into the affected area until the nature of the substance discharged is known, and due caution should be exercised thereafter. Local contingency plans shall identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included.

(b) *Waterfowl conservation.* Oil discharges, particularly in estuarine and near shore areas, often cause severe stress to resident and migratory bird species. The DOI representative and the state liaison to the RRT shall arrange for and coordinate actions of professional and volunteer groups wishing to participate in waterfowl dispersal, collection, cleaning, rehabilitation, and recovery activities. Regional and local contingency plans shall, to the extent practicable, identify organizations or institutions that are willing to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III and Phase IV response actions (§§ 1510.53 and 1510.54 of this subpart).

Subpart F—Coordinating Instructions

§ 1510.60 Delegation of authority.

As provided by Annex X of this plan, EPA delegation of authority or concurrence in the use of chemical pollution control activities initially may be oral; however, written confirmation by the EPA representative on the RRT should be completed as soon as possible.

§ 1510.62 Multi-regional actions.

(a) If a discharge or a potential discharge moves from the area covered by one Federal local or regional contingency plan into another area, the authority for pollution control actions shall likewise shift. If a polluting discharge or potential discharge affects areas covered by two or more regional plans, the response mechanism of both plans shall be activated. In this case, pollution control actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There shall be only one OSC at any time during the course of a response operation. Should a discharge affect two or more areas, the EPA and USCG will designate the OSC, giving prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if EPA and USCG members are unable to agree on designation. The NRT shall designate the OSC if members of one RRT or of two adjacent RRTs are unable to agree on the designation.

§ 1510.63 General pattern of response actions.

(a) When the OSC receives a report of a discharge or potential discharge, he should normally take action in the following sequence:

(1) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, the type and quantity of material discharged, and the source of the discharge.

(2) Notify RRT members and the Scientific Support Coordinator, in accordance with the applicable regional plan.

(3) Determine, in accordance with section 311(c)(1) of the Act, whether

the discharger (that is, the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs) is properly carrying out removal actions. Removal is being done properly when:

(i) The discharger's cleanup is fully sufficient to minimize or mitigate damage to the public welfare. The discharger's removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage; and

(ii) The discharger's removal efforts are in accordance with applicable regulations and guidelines, including this plan, especially Annex X.

(4) Officially classify the severity of the discharge and determine the course of action to be followed.

(5) Determine whether state action to effect removal is necessary within the meaning of section 311(c)(2)(H) of the Act (See § 1510.65(h)).

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that the initial information overstated the magnitude or danger of the discharge and no environmental pollution or potential pollution is involved, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the discharger taking appropriate removal action, contact should be established with the discharger. The removal action should be monitored to insure continued proper action by the discharger.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken:

(i) An immediate effort should be made to prevent further discharges from the source.

(ii) The discharger shall be advised of the proper action to be taken.

(iii) If the discharger does not follow this advice, warning of the discharger's liability for the cost of removal, pursuant to section 311(f) of the Act, shall be given.

(iv) The OSC shall notify appropriate state and local officials. He shall keep the RRC advised and initiate Phase III and IV operations as conditions warrant.

(v) Information shall be collected for possible recovery of removal costs when removal is effected in accordance with § 1510.55.

(4) When a report of investigation indicates that a medium discharge has occurred, or the potential for a medium discharge exists, the OSC shall follow the same general procedures as for a minor discharge. Additionally, the OSC shall make a recommendation concerning team activation to the chairman of the RRT.

(5) When a report indicates that a major discharge has occurred, a potential major pollution emergency exists, or that a discharge or potential discharge which could arouse wide public concern has occurred, the OSC shall follow the same procedures as for minor and medium discharges. The RRC and NRC shall, however, be notified immediately of the situation even if the initial report has not been confirmed.

§ 1510.64 Special forces available to the OSC.

(a) The National Strike Force consists of the strike teams established by USCG on the East, West and Gulf Coasts and includes the emergency task forces to provide assistance to the OSC during Phase II, IV, and V operations as the circumstances of the situation dictate. When possible, the strike teams will provide training to the emergency task forces and participate with the RRT in regional and local contingency plan development.

(1) The strike teams can provide communications support, advice, and assistance for oil and hazardous substances removal. These teams also have knowledge of ship salvage, damage control, diving and removal techniques. Additionally, they are equipped with specialized containment and removal equipment, and have rapid transportation available.

(2) Emergency task forces, established by the USCG at major ports pursuant to section 311(c)(2)(C) of the Act, consist of trained personnel with supplies of oil and hazardous sub-

stances pollution control equipment and materials, and detailed discharge removal plans for their areas of responsibility.

(3) The strike teams will respond to requests for assistance from the OSC. Requests for a team may be made directly to the Commanding Officer of the appropriate team, the Coast Guard member of the RRT, the appropriate area commander, USCG, or to the Commandant, USCG through the NRC. Emergency task forces work directly for the OSC and are accessible through those offices.

(b)(1) The Environmental Response Team (ERT) is established by EPA in accordance with its disaster and emergency responsibilities. The ERT includes expertise in biology, chemistry and engineering. It can provide access to special decontamination equipment for chemical spills and advice to the OSC on:

(i) Cleanup techniques and priorities;

(ii) Water supply contamination and protection;

(iii) Application of dispersants;

(iv) Habitat restoration; and

(v) Disposal of contaminated material.

The ERT will be especially useful to the OSC in hazardous substances spill response and in damage assessment for all spills.

(2) The OSC or RRT requests for ERT support should be made to the EPA representative on the RRT, the EPA Headquarters emergency coordinator or the appropriate EPA regional emergency coordinator.

(c)(1) Scientific support is organized by EPA and NOAA, with assistance from DOI, to support the OSC by providing scientific assistance including: oceanography, chemistry, location of environmentally sensitive areas, assessment of environmental damage and coordination of on-scene scientific activity. Generally, the Scientific Support Coordinator (SSC) for coastal oil spills will be provided by NOAA and those for inland spills will be provided by EPA. This delineation of responsibility may be modified within a region by agreement between DOC, DOI and EPA representatives to the RRT.

(2) Scientific support coordinators serve as advisors to the RRT and OSC in planning and on the OSC staff during major spill response operations.

(i) In planning, the SSC works with the RRT to identify vulnerable resources within the region and to establish and maintain a scientific support structure within the region. The structure should be adequate to provide the OSC with well qualified scientific assistance. Specific responsibilities of the SSC in planning are:

(A) Establish contact with the scientific community within the region, including State, local, university, industry and others, to determine the existing capability to perform damage assessment that may be necessary in support of the OSC. In those regions whose states have well developed scientific organizations, they should be employed to support the OSC.

(B) Organize the development of those portions of regional and local contingency plans that deal with scientific support to the OSC and the responsibilities of agencies that must perform damage assessment of pollution incidents. The SSC shall advise each OSC of scientists who can provide scientific advice in assessing effects of spills in localized areas.

(C) Identify, in cooperation with the region's scientific community, research (basic or applied, data gathering, processing, etc.) required to support the OSC in mitigating the effects of spills and improve the existing capability to support damage assessment.

(ii) When requested by the OSC, the SSC will function as a member of the OSC's staff. In that capacity, the SSC functions as the liaison between the scientific community and the OSC. The extent and nature of SSC involvement in the operational mode shall be determined by the OSC. In order to provide an orderly and intelligible flow of information to the OSC, act as a mediator among differing scientific opinions, and advise the OSC on use by scientific personnel of limited common resources such as aircraft and vessels, the SSC shall:

(A) Coordinate response from scientific to OSC requests for assistance and to requests from RRT agencies for performance of damage assessment investigations; coordinate responses and requests from scientists interested in performing research on spills.

(B) Serve as the principal liaison for scientific advice from the scientific community to the OSC. The SSC shall ensure that differing scientific views within the scientific community are communicated to the OSC in timely manner.

(3) The SSC will respond to requests for assistance from the OSC or from the chairman of the appropriate RRT. Details on provision of the access to scientific support shall be included in regional contingency plans.

(d) The activation or involvement of any special forces shall not relieve the OSC of any responsibilities for notification and activation of any member agency of the RRT concerning a pollution incident. The activation and involvement of any special forces will not replace or impede the response actions of any RRT agencies in carrying out responsibilities outlined in § 1510.22, or in providing advice or assistance to the OSC or RRT relative to a pollution incident.

§ 1510.65 Funding.

(a) If the person responsible for the discharge or threat of discharge does not act promptly, or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the Act. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the Act.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities insofar as practicable. This plan intends that Federal agencies will make resources available, expend funds, or participate in response to pollution incidents under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through cross-servicing agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a pollution incident. The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

(c) A pollution revolving fund, administered by the Commandant, USCG, has been established pursuant to section 311(k) of the Act. Regulations governing the administration and use of the fund are contained in 33 CFR Part 153. The OSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the fund is appropriate.

(d) Funding of response actions other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.

(e) The funding of removal actions necessitated by a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions:

(1) The EPA can provide funds to begin timely discharge removal actions when the OSC is an EPA representative. Because EPA does not have funds authorized for this purpose, operating program funds may be used to initiate Phase III and IV activities; funding of continuing Phase III and IV actions, however, shall be determined on a case-by-case basis by the Oil and Special Materials Control Division at EPA.

(2) The USCG pollution control efforts are funded under "operating expenses." These funds are used in accordance with agency directives and applicable regional plans.

(3) The Department of Defense has two specific sources of funds which may be applicable to a pollution incident under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Functions

Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy has funds available on a reimbursable basis to conduct salvage operations.

(g) Certain emergency response activities under this plan may qualify for reimbursement as disaster relief functions. In making a declaration of a "major disaster" or a determination that an "emergency" exists, the President may allocate funds from his Disaster Relief Fund, managed by the Director, Federal Emergency Management Agency. The Director may then authorize certain reimbursements to Federal agencies for assistance provided under direction of his office. (See 24 CFR Part 2201, "Reimbursement of Other Federal Agencies under Pub. L. 91-606 (For use under Pub. L. 93-288 until revised).) The Director, FEMA, may also make financial assistance available to state governments and, through the states, to local governments (See 24 CFR Part 2205, "Federal Disaster Assistance").

(h) Pursuant to section 311(c)(2)(H) of the Act, the State or States affected by a discharge of oil or hazardous substances may act where necessary to remove such discharge and may, pursuant to 33 CFR Part 153, be reimbursed from the pollution revolving fund for the reasonable costs incurred in such removal.

(1) Removal by a state is necessary within the meaning of section 311(c)(2)(H) of the Act when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs cannot effect removal properly and that:

(i) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or mitigate, or

(ii) Remove or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(2) State removal actions must be in compliance with Annex X of this plan in order to qualify for reimbursement.

(3) State removal actions are considered to be Phase III or Phase IV actions, under the same definitions applicable to Federal agencies.

(4) Actions taken by local government in support of Federal discharge removal operations are considered to be actions of the State for purpose of this section.

(i) Regional and local contingency plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

Annex I

ANNEX I—1100 DISTRIBUTION

1101 Plan Distribution

1101.1 This Plan will be distributed to designated offices of participating Agencies, state and interstate water pollution control agencies and such other Federal, state, local and private agencies and organizations which are cooperating with and participating in activities in support of the Plan.

1101.2 Included in this formal distribution are the following:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health, Education and Welfare
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Environmental Protection Agency
Federal Emergency Management Agency
All state representatives to regional response teams
All state water pollution control agencies
All interstate water pollution control agencies
Other Federal, state, local and private agencies and organizations, as appropriate

1101.3 Formal distribution of the Plan and amendments will be made by the Environmental Protection Agency.

1102 Amendment, Distribution and Format

1102.1 Amendments to the Plan and annexes will be made by sequentially numbered changes. Numbered changes will be effected by means of a transmittal sheet which identifies the Plan, the change number and date, the page numbers affected by the change and any other instructions deemed necessary for purpose of clarity or to make special emphasis or explanation of the change. There will be attached to the transmittal sheet the revised or added pages with the change number and current date on each page at the upper right hand corner.

1102.2 Where a change can be effected merely by pen and ink, the transmittal sheet may be used to accomplish the change without submission of revised pages. The use of pen and ink changes is limited to those cases where existing matter is being deleted or is of minor extent.

1102.3 Asterisks will be used to indicate changes. For line changes, an asterisk will be placed before and after each sentence change in the left and right page margins. For paragraph changes, an asterisk will be placed before and after each paragraph changed and if continued on the next page, an asterisk will be placed at the top of the page and the end of the paragraph. For a paragraph deletion, as asterisk will be placed in the left margin and the paragraph number or letter will be retained in the original sequence followed by the word "Rescinded" in parentheses.

1102.4 If the Plan is completely rewritten, asterisks will not be used supersession will be indicated at the bottom of the first page.

ANNEX II—FORMATS FOR REGIONAL AND LOCAL CONTINGENCY PLANS

Regional Contingency Plan

Letter of Promulgation.
Record of Amendments.
Table of Contents.
List of Effective Pages.

100 Introduction

101 Authority.
102 Purpose and Objectives.
103 Scope.
104 Abbreviations.
105 Definitions.

200 Policy and Responsibility

201 Federal Policy.
202 Multi-National Policy.
203 Federal Responsibility.
204 Non-Federal Responsibility.

300 Planning and Response Organization

301 Spill Response Activity and Coordination—General.
302 Regional Response Team.
303 Regional Response Center.
304 On-Scene Coordination.
305 Special Forces.

400 Coordinating Instructions

401 Delegation of Authority.
402 Notification.
403 Multi-regional Responses.
404 Multi-national Responses.
405 Coordination with Special Forces.
406 Termination of Response Activities.
407 Resolution of Disputes.

500 Procedures for Reviewing and Updating the Regional and Local Contingency Plans

501 Responsibility.
502 Procedures for Review.

Annex I—1100 Distribution.
Annex II—1200 Regional Response Team.
Annex III—1300 Regional Response Center.
Annex IV—1400 Geographical Boundaries.
Annex V—1500 Notifications, Communications and Reports.
Annex VI—1600 Public Information.
Annex VII—1700 Legal Authorities.
Annex VIII—1800 Documentation for Enforcement and Cost Recovery.
Annex IX—1900 Funding.
Annex X—2000 Cleanup Techniques and Policies.
Annex XI—2100 Arrangements for Participation of Non-Federal Groups.
Annex XII—2200 Interagency Support Agreements/Arrangements.
Annex XIII—2300 State Contingency Plans.
Annex XIV—2400 Multi-national Contingency Plans.
Annex XV—2500 Regional Data Base.
Annex XX—3000 National Contingency Plan.

Local Contingency Plans

Letter of Promulgation.
Record of Amendments.
Table of Contents.
List of Effect Pages.

100 Introduction

101 Authority.
102 Purpose and Objective.
103 Scope.
104 Abbreviations.
105 Definitions.

200 Policy and Responsibility

201 Federal Policy.
202 Related State Policy.
203 Multi-national Policy.
204 OSC Responsibility.
205 Non-Federal Responsibility.

300 Planning and Response Considerations

301 Oil and Hazardous Substances Transportation Pattern.
302 Transfer Storage and Processing Facilities.
303 Historical Spill Considerations.
304 Hydrological and Climatological Considerations.

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305 Local Geography.
306 Highly Vulnerable Areas.
307 Local Response Resources.
308 Waterfowl Conservation.
309 Endangered Species.

400 Response Organization

500 Operational Response Actions

600 Coordination Instructions

601 Delegation of Authority.
602 Notification.
603 Coordination with Special Forces.
604 Termination of Response Activities.
605 Resolution of Disputes.

700 Procedures for Reviewing and Updating the Local Contingency Plan

Annex I—1100 Distribution.
Annex II—1200 Pollution Response Personnel Assignments.
Annex III—1300 Geographical Boundaries.
Annex IV—1400 Notifications, Communications and Reports.
Annex V—1500 Public Information.
Annex VI—1600 Documentation for Enforcement and Cost Recovery.
Annex VII—1700 Funding.
Annex VIII—1800 Clean up Techniques and Policies.
Annex IX—1900 Arrangements for Non-Federal Groups.
Annex X—2000 Interagency Support.
Annex XI—2500 Geographical/Action Directory.
Annex XVI—2600 Response/Assistance Directory.

ANNEX III—REGIONS AND OFFICE LOCATIONS OF EPA AND THE COAST GUARD

1300 Geographical Boundaries

Regional contingency plans shall be based upon the Standard Federal Regions. Local plans shall be based upon the subregional area, for which each OSC is responsible for responding to pollution incidents. These plans are available for inspection at EPA regional offices or USCG district offices as shown in 1301 and 1302. Other agencies' addresses and telephone numbers may be found in the United States Government Manual (issued annually) or in the local telephone directories.

1301 Environmental Protection Agency—Office addresses, telephone numbers, and map.

1302 Department of Transportation—United States Coast Guard district offices addresses, telephone numbers, and map.

Environmental Protection Agency, Region I Room 2303, John F. Kennedy Federal Bldg., Boston, MA 02203, Tel: (617) 223-7265.

Environmental Protection Agency, Region II, Room 908, 26 Federal Plaza, New York, NY 10007, Tel: (201) 548-8730.

Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Tel: (215) 597-9898.

Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, GA 30308, Tel: (404) 881-4062.

Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, IL 60605, Tel: (312) 353-2318.

Environmental Protection Agency, Region VI, 1201 Elm Street, First International Bldg., Dallas, TX 75270, Tel: (214) 749-3840.

Environmental Protection Agency, Region VII, 1735 Baltimore Street, Kansas City, MO 64108, Tel: (816) 374-3778.

Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, CO 80295, Tel: (303) 837-3880.

Environmental Protection Agency, Region IX, 215 Freemont Street, San Francisco, CA 80295, Tel: (303) 837-3880.

Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101, Tel: (206) 442-1200.

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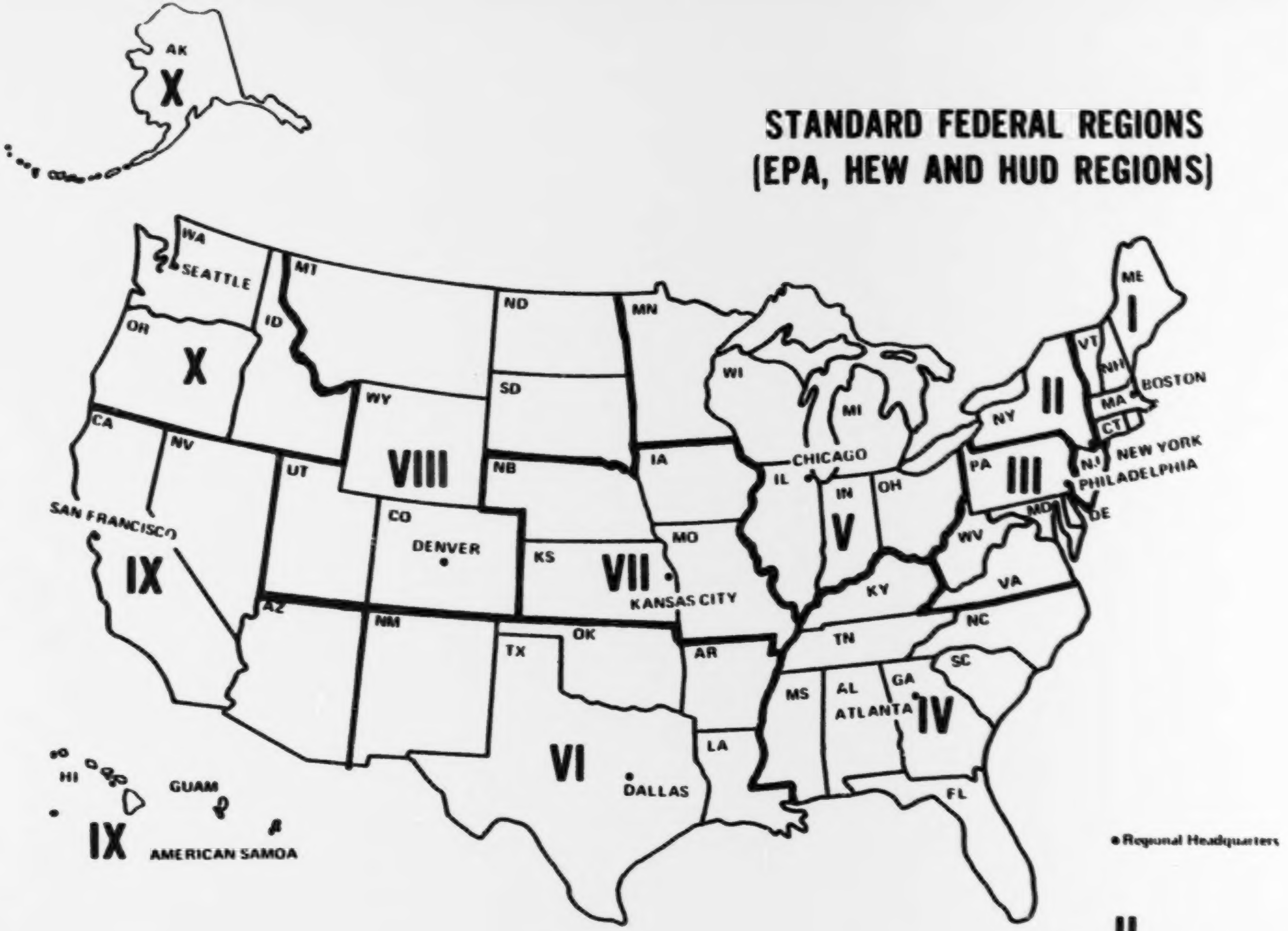
STANDARD FEDERAL REGIONS
(EPA, HEW AND HUD REGIONS)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1302 DEPARTMENT OF TRANSPORTATION, U.S. COAST GUARD DISTRICTS

1st Coast Guard District, 150 Causeway Street, Boston, MA 02114, Duty Officer: (617) 223-3645.

2nd Coast Guard District, 1430 Olive Street, St. Louis, MO 63101, Duty Officer: (314) 425-4614.

3rd Coast Guard District, Governors Island, New York, NY 10004, Duty Officer: (212) 668-7055.

5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705, Duty Officer: (804) 398-6231.

7th Coast Guard District, Room 1018, Federal Building, 51 SW 1st Avenue, Miami, FL 33130, Duty Officer: (305) 350-5611.

8th Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Duty Officer: (504) 589-6225.

9th Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199, Duty Officer: (216) 293-3984.

11th Coast Guard District, Union Bank Building, 400 Oceangate Boulevard, Long Beach, CA 90822, Duty Officer: (213) 590-2225.

12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126, Duty Officer: (415) 556-5500.

13th Coast Guard District, 915 2nd Avenue, Seattle, WA 98174, Duty Officer: (206) 442-5886.

14th Coast Guard District, Prince Kalanianaole Fed. Bldg., 300 Ala Moana, Honolulu, HI 96850, Duty Officer: (808) 546-7109 (commercial only), AUTOVON—(315) 430-0111.

17th Coast Guard District, P.O. Box 3-5000, Juneau, AK 99802, Duty Officer: (907) 586-7340 (commercial only), AUTOVON—(317) 388-7340.

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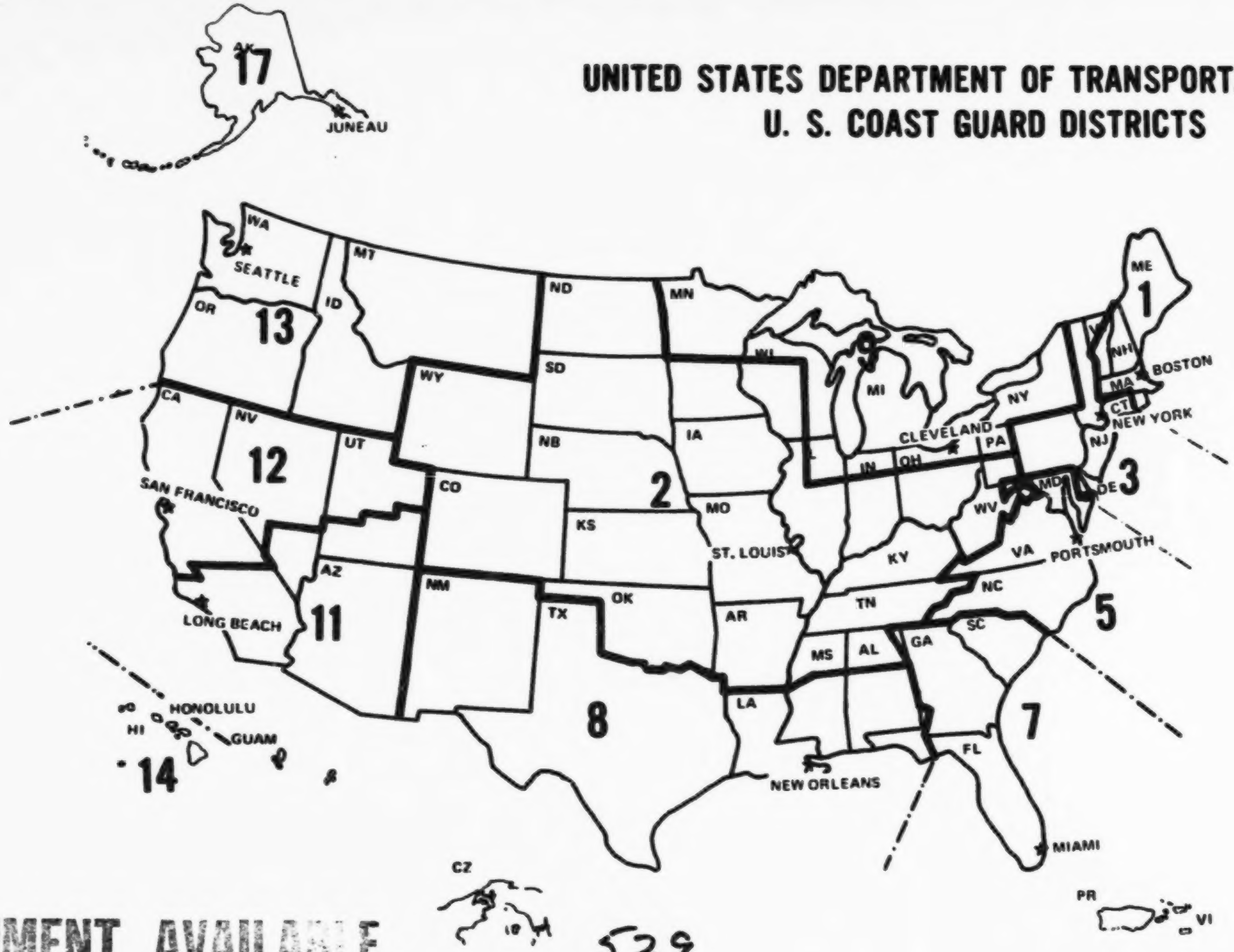
UNITED STATES DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD DISTRICTS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ANNEX IV

1400 Legal Authorities.

1400.1 Federal statutes relative to control of pollution by oil and hazardous substances are administered by several departments and agencies. The following is a tabular summary of the most important of these authorities:

Statute and Agency(ies)

1411 Federal Water Pollution Control Act, as amended (33 USC 1251, et. seq.), EPA, USCG, CORPS, Justice
1412 Safe Drinking Water Act amendment to the Public Health Service Act (42 USC 201); EPA
1413 Refuse Act of 1899 (33 USC 407; 411); CORPS, USCG, Customs, Justice
1414 Toxic Substances Control Act, 1976 (42 USC 2601); EPA
1415 Resources Conservation and Recovery Act of 1976 (42 USC 6901); EPA
1416 Marine Protection, Research and Sanctuaries Act of 1976 (33 USC 1401 et. seq.); EPA, USCG, NOAA, CORPS
1417 Hazardous Materials Transportation Act of 1974 (49 USC 1801 et. seq.); DOT
1418 Ports and Waterways Safety Act as amended (33 USC 1221, et. seq.); USCG
1419 Federal Insecticide, Fungicide and Rodenticide Act of 1972 (7 USC 121 et. seq.); EPA
1420 Deepwater Port Act of 1974 (33 USC 1501 et. seq.); DOT, DOI
1421 Outer Continental Shelf Lands Act, as amended (43 USC 1331); DOI, DOT
1422 Oil Pollution Act of 1961, as amended (33 USC 1001-1001.5); USCG, Customs, CORPS, State
1423 Endangered Species Act of 1973, as amended (16 USC 1531); FWS, NOAA
1424 Intervention on the High Seas Act (33 USC 1471-1487); USCG
1430 Related Federal statues, not specific to oil and hazardous substances pollution control, but, nonetheless, applicable to discharge prevention and cleanup in certain cases are:
1431 Disaster Relief Act of 1974; FEMA, All Federal agencies
1432 U.S. Navy Ship Salvage Authority; U.S. Navy
1433 The Migratory Bird Treaty Act (16 USC 701-718); FWS
1440 Important International Conventions and Agreements relative to oil and hazardous substances pollution control and liability are:
1441 International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and amendments
1442 Convention on the Territorial Sea and the Contiguous Zone
1443 Convention between the Government of the United States and the Government of Japan for the Protection of Migratory Birds in Danger of Extinction, and Their Environment
1444 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

ANNEX V—COMMUNICATION SERVICES AVAILABLE IN NATIONAL RESPONSE CENTER

1501 Telephone (voice) services available include:

1501.1 Commercial telephone available 24 hours per day, free (800) 424-8802 (or 426-2675 in the Washington, D.C. local calling area);

1501.2 AUTOVON (Automated Voice Network)—General purpose switched voice network of Defense Communications Systems, which serves Continental U.S., Alaska, Europe, Pacific, and Panama;

1501.3 Washington Tactical Switchboard—Pentagon terminal of the tactical telephone system, operated by USAF;

1501.4. FTS—GSA operated government administrative telephone system; and

1501.5 SARTEL—Search and Rescue Command Coordination telephone network including leased Hotline telephone net extending from Halifax to New Orleans.

1502 *Teletypewriter services available include:*

1502.1 AUTODIN—A worldwide high speed user data communications system operated for and managed by the DCA to provide both direct user-to-user and store and forward message switching service for DOD and other government agencies;

1502.2 SARLANT—Coast Guard-leased teletypewriter system extending from Massachusetts to Texas (used to control and coordinate search and rescue incidents and to handle other operational traffic and priority administrative communications);

1502.3 SARPAC—Same as 2.2 for the West Coast U.S.; and

1502.4 TELEX—Teletypewriter exchange service provided by Western Union that serves Continental U.S., industry and government offices. TELEX also permits direct connections.

ANNEX VI—SAMPLE COLLECTION PROCEDURES

1601 Sample collection procedures to be followed by OSC:

1601.1 Several precautions must be observed when taking and handling liquid samples for analyses as the character of the sample may be affected by a number of common conditions. These precautions con-

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cern the following: (a) The composition of the container; (b) cleanliness of the container; and, (c) manner in which the sample is taken.

1601.2 In taking such samples, the following procedures are to be followed in all cases:

1601.2-1 Glass or other appropriate containers of suitable size shall be used. The portion of the closure (sealing gasket or cap liner) which may come into contact with the sample in the container is of considerable importance. When oil or petroleum hydrocarbons are to be sampled, the closure should be made of glass, aluminum foil, or teflon. Pollutants other than oil may require special precautions such as jacketing of glass containers or different closure material. The analysis laboratory should be consulted whenever a question arises to the appropriateness of any packaging material.

1601.2-2 Previously unused containers are preferred. Containers that have been cleaned with a strong detergent, thoroughly rinsed, and dried may be used.

1601.2-3 Some explanatory notes governing the above procedures are as follows: (a) Glass or other appropriate containers always must be used because plastic containers, with the exception of teflon, have been found in some cases to absorb organic materials from water and, in other cases, compounds have been dissolved from plastic containers; (b) as it is desirable to take a large sample of the pollutant, proper skimming techniques should be used to obtain a sufficient amount of oil for analysis; and (c) because pollution conditions change rapidly, samples should be taken promptly, and the time sequences and locations noted.

1601.2-4 Consult with the analysis laboratory personnel relative to special samples and unusual problems.

1601.2-5 Samples collected are to be transmitted for analysis, using special courier or registered mail (return receipt requested). Appropriate analytical laboratories are designated in the regional plan. Reports of laboratory analysis will be forwarded to the appropriate RRT for transmittal to counsel.

ANNEX VII—1700 TECHNICAL INFORMATION

1701 Technical Library

1701.1 A technical library of pertinent pollution control documents will be maintained in the NRC and in each RRC. Such information should be useful as reference information to the experienced OSC and instructional to less experienced personnel.

1702 Specific References

1702.1 As a minimum, the following reference documents will be maintained in the NRC and in each RRC technical library.

1702.1-1 Current National Oil and Hazardous Substances Pollution Contingency Plan.

1702.1-2 Current Regional and State Oil and Hazardous Substances Pollution Contingency Plan.

1702.1-3 Current Directory of the American Council of Independent Laboratories.

1702.1-4 Encyclopedia of Chemical Technology, 22 Vol., Kirkothmer, 2nd edition c1963-1971, John Wiley & Sons, New York, New York.

1702.1-5 Chemical Data Guide for Bulk Shipment by Water (U.S. Coast Guard CG-388)

1702.1-6 U.S. Army Corps of Engineers' Regulations ER 500-1-1 and ER 500-1-8 Emergency Employment of Army Resources (Natural Disaster Activities).

1702.1-7 Federal Disaster Assistance Program-Handbook for Applicants FDAA 3300.1, July 1973.

1702.1-8 Federal Disaster Assistance Program-Eligibility Handbook 3300.2, July 1973.

1702.1-9 Federal Disaster Assistance Program-Handbook for State and Federal Officials 3000.4, December 1973.

1702.1-10 Handbook of Toxicology (National Academy of Sciences/National Resource Council).

1702.1-11 46 CFR-146. Transportation or Storage of Explosives or Other Dangerous Articles or Substances, and Combustible Liquids on Board Vessels.

1702.1-12 33 CFR, 3, 5, 121, 122, 124-6. Security of Vessels and Waterfront Facilities (USCG CG 239).

1702.1-13 33 and 40 CFR parts implementing section 311 of the Federal Water Pollution Control Act, as amended.

1702.2 In addition to the library specified above, the RRC should have provision, either in publications or by computer terminal, for access to the EPA Technical Assistance Data System, (TADS) and the USCG Chemical Hazard Response Information System (CHRIS).

ANNEX VIII—DEFINITIONS OF TERMS

1801 *API gravity.* An empirical scale for measuring the density of liquid petroleum products, the unit being called the "degree API".

1802 *Ash.* Inorganic residue remaining after ignition of combustible substances determined by definite prescribed methods.

1803 *Asphalts.* Black, solid or semi-solid, bitumens which occur in nature or are produced as residues during petroleum refining.

1804 *Bilge oil.* Waste oil which accumulates, usually in small quantities, in the lower spaces in a ship, just inside the hull plating. Usually mixed with larger quantities of water.

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1805 *Blowout.* A sudden, violent escape of gas and oil from an oil well when high pressure gas is encountered and preventive measures have failed.

1806 *Boiling point.* The temperature at which the vapor pressure of a liquid is equal to atmospheric pressure.

1807 *Bunker "C" oil.* General term used to indicate a heavy viscous fuel oil.

1808 *Bunker fuel.* General term for heavy oils used as fuel on ships and in industry. It often refers to No. 5 and 6 fuel oils.

1809 *Bunkering.* The process of loading fuel aboard ship.

1810 *Conversion tables.* (Approximate Conversions).

Materials	Barrel per ton (*long*)
Crude oils	6.7–8.1
Aviation gasolines	8.3-9.2
Motor gasolines	8.2-9.1
Kerosenes	7.7-8.3
Gas oils	7.2-7.9
Diesel oils	7.0-7.9
Lubricating oils	6.8-7.6
Fuel oils	6.6-7.0
Asphalt bitumens	5.9-6.5

(As a general rule-of-thumb, use 6.5 barrels or 250 gallons per ton of oil.)

1811 *Crude oil.* Petroleum as it comes from the earth. There may be several thousands of different substances in crude oil, some of which evaporate quickly while others persist indefinitely. The physical characteristics of crude oils may vary widely. Crude oils are often identified in trade jargon by their regions of origin. This identification may not relate to the apparent physical characteristics of the oil. Commercial gasoline, kerosene, heating oils, diesel oils, lubricating oils, waxes, and asphalts are all obtained by refining crude oil.

1812 *Demulsibility.* The resistance of an oil to emulsification, or the ability of an oil to separate from any water with which it is mixed. The better the demulsibility rating, the more quickly the oil separates from water.

1813 *Density.* Density is the term meaning the mass of a unit volume. Its numerical expression varies with the units selected.

1814 *Emulsion.* A mechanical mixture of liquids which do not naturally mix as oil and water. Water-in-oil emulsions have the water as the internal phase and oil as the external phase. Oil in water emulsions have oil as the internal phase.

1815 *Fire point.* The lowest temperature at which an oil vaporizes rapidly enough to burn for at least *5 seconds* after ignition, under standard conditions.

1816 *Flash point.* The lowest temperature at which an oil gives off sufficient vapor to form a mixture which will ignite, under standard conditions.

1817 *Fraction.* Refinery term for a product of fractional distillation having a restricted boiling range.

1818 *Fuel oil grade.* Numerical ratings ranging from 1 to 6. The lower the grade number, the thinner the oil is and the more easily it evaporates. A high number indicates a relatively thick, heavy oil. Number 1 and Number 2 fuel oils are usually used in domestic heaters, and the others are used by industry and ships. Number 5 and Number 6 oils are semi-solids that must be liquified by heating. Kerosene, coal oil, and range oil are all Number 1 oil. Number 3 is no longer used as a standard term for fuel oil.

1819 *Innage.* Space occupied in a product container.

1820 *In personem.* An action in personem is instituted against an individual, usually through the personal service of process, and may result in the imposition of liability directly upon the person of a defendant.

1821 *In rem.* An action in which the vessel or thing itself is treated as the offender and made defendant without any proceeding against the owners or even mentioning their names. The decree in an action in rem is enforced directly against the condemnation and sale thereof.

1822 *Load On Top (LOT).* A procedure for ballasting and cleaning unloaded tankers without discharging oil. Half of the tanks are first filled with seawater while the others are cleaned by hosing. Then oil from the cleaned tanks, along with oil which has separated out in the full tanks, is pumped into a single slop tank. The clean water in the full tanks is then discharged while the freshly-cleaned tanks are filled with seawater. Ballast is thus constantly maintained.

1823 *Oil films.* A slick thinner than .0001 inch and may be classified as follows:

Standard term	Gallons of oil per square mile	Appearance
"Barely visible"	25	Barely visible under most favorable light conditions.
"Silvery"	50	Visible as a silvery sheen on surface water.
"Slightly colored"	100	First trace of color may be observed.
"Brightly colored"	200	Bright bands of color are visible.

1833 *Tonnage.* There are various tonnages applied to merchant ships. The one

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commonly implied is gross tonnage although in these days tankers and other bulk-carriers are often referred to in terms of deadweight.

1833.1 *Gross tonnage.* 100 cubic feet of permanently enclosed space is equal to one gross ton—nothing whatever to do with weight. This is usually the registered tonnage although it may vary somewhat according to the classifying authority or nationality.

1833.2 *Net tonnage.* The earning capacity of a ship. The gross tonnage after deduction of certain spaces, such as engine and boiler rooms, crew accommodations, stores, equipment, etc. Port and harbor dues are based on this tonnage.

1833.3 *Displacement tonnage.* The actual weight in tons, varying according to whether a vessel is in light or loaded condition. Warships are always spoken of by this form of measurement.

1833.4 *Deadweight tonnage.* The actual weight in tons of cargo, stores, etc., required to bring a vessel down to her load line, from the light condition. Cargo deadweight is, as its name implies, the actual weight in tons of the cargo when loaded, as distinct from stores, ballast, etc.

1834 *Ullage.* The amount by which a tank or vessel lacks being filled. (See also Outage).

1835 *Viscosity.* The property of liquids which causes them to resist instantaneous change of shape, or instantaneous rearrangement of their parts, due to internal friction. The resistance which the particles of a liquid offer to a force tending to move them in relation to each other. Viscosity of oils is usually expressed as the number of seconds at a definite temperature required for a standard quantity of oil to flow through a standard apparatus.

1836 *Viscous.* Thick, resistance to flow, having a high viscosity.

1837 *Volatile.* Evaporates easily.

Annex X—Schedule of Chemical and Other Additives to Remove Oil and Hazardous Substances Discharges

2001 General

2001.1 This Schedule has been prepared by the U.S. Environmental Protection Agency pursuant to section 1(2) of Executive Order 11735. This Schedule applies to the waters of the United States and adjoining shorelines, the waters of the Contiguous Zone, and the high seas beyond the Contiguous Zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

2001.2 This Schedule applies to the use of any chemicals or other additives as hereinafter defined that may be used to remove oil and remove or neutralize hazardous substances discharges. Any chemical agent or other substance not specifically defined in this schedule will be considered by EPA on a case-by-case basis for use in the removal of oil and hazardous substances discharges.

2001.3 This Schedule favors development and utilization of sorbents, skimmers, booms and other mechanical control methods to remove or mitigate oil and remove, mitigate, or neutralize hazardous substances discharges from the environment with subsequent proper disposal.

2001.4 It is the intent of this Schedule that the use of chemicals and additives to remove or mitigate the effects of oil or hazardous substances discharges shall cause the least overall environmental impact.

2001.5 In implementing this Schedule and in maintaining its relationship with other Federal and State agencies, EPA shall recognize that some States may have more stringent laws, regulations or written policies regulating the use of chemicals in the removal of oil and hazardous substance discharges, in which case such laws, regulations or policies shall govern.

2001.6 It has been determined that because of the overriding need for prompt initiation of discharge removal actions no formal permit, as provided for by sec. 402 of the Act, shall be required before application of chemicals to mitigate the effects of a discharge. The provisions of sec. 1510.21(f) and 1510.36(a)(3) of this plan shall apply.

2002 Definitions

Materials applied to oil or floating hazardous substances discharges are defined as follows:

2002.1 Chemical agents are those elements, compounds, or mixtures that disperse, dissolve, emulsify, neutralize, precipitate, reduce, solubilize, oxidize, concentrate, congeal, entrap, fix, gell, make the pollutant mass more rigid or viscous, or otherwise facilitate the mitigation of deleterious effects or removal of the pollutant from the water.

2002.2 Dispersing Agents are those chemical agents which emulsify, disperse, or solubilize oil into the water column or act to further the surface spreading of oil slicks in order to facilitate dispersal of the oil into the water column.

2002.3 Surface Collecting Agents are those chemical agents which are a surface film forming chemical for controlling oil layer thickness.

2002.4 Biological Additives are microbiological cultures, enzymes, or nutrient addi-

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tives that are deliberately introduced into an oil or hazardous substance spill for the specific purpose of encouraging bio-degradation to mitigate the effects of a spill.

2002.5 Burning Agents are those materials which, through physical or chemical means, improve the combustibility of the materials to which they are applied.

2002.6 Sinking Agents are those materials which are applied to oil and hazardous substance spills to sink floating pollutants below the water surface.

2002.7 Mechanical removal methods include the use of pumps, skimmers, booms, earthmoving equipment, and other mechanical devices.

2002.8 Sorbents are essentially inert and insoluble materials which are used to remove oil and hazardous substances from water through a variety of sorption mechanisms. Examples include: straw, expanded perlite, polyurethane foams, reclaimed paper fibers, peat moss.

2003 Dispersing Agent Program for Spills of Oil and Applicable Hazardous Substances

2003.1 Authorization for Use of Dispersing Agents

2003.1-1 Major and medium discharges. Dispersing agents may be used in any place, at any time, and in quantities designated by the OSC when their use will:

2003.1-1.1 In the judgment of the OSC, prevent or substantially reduce hazard to human life.

2003.1-1.2 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State or Federal agencies, prevent or reduce substantial hazard to a major segment of the population(s) of vulnerable species of waterfowl; or,

2003.1-1.3 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State and Federal agencies, result in the least overall environmental damage, or interference with designated water uses.

2003.1-2 Minor discharge. The provisions of section 2003.1-1 shall apply.

2003.2 Special Restrictions on Dispersing Agent Use:

2003.3.2-1 Chemical agents shall not be considered for use as dispersing agents unless technical product data have been provided and accepted in accordance with 2003.3 except when the judgment of the OSC the hazards discussed in 2003.1-1.1 are so imminent that the time delay for obtaining a dispersant agent that is in compliance with 2003.3 would be excessive.

2003.2-2 Federal officials responsible for oil and hazardous substance spill response activities at all levels shall develop effective programs to insure that dispersants that are available for use in appropriate spill response actions are dispersants with adequate technical data on file with EPA. This effort will help preclude the avoidance of the EPA technical data program by manufacturers or suppliers who might wish to take advantage of the emergency conditions provision of 2003.2-1.

2003.2-3 For all situations where dispersants are used, accurate records shall be kept on dispersant types, brands, application rates and methods, effectiveness, environmental impacts, plus any other pertinent observations.

2003.3 Technical Product Data For Dispersing Agents

2003.3-1 Technical product data as outlined in 2003.3-4 on the physical, chemical and toxicity characteristics of a dispersing agent shall be submitted to the Oil and Special Materials Control Division (WH-548), Environmental Protection Agency, Washington, D.C. 20460, at least 60 days prior to the use of the agent. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data provided. If additional information is requested or EPA desires to perform tests, the dispersing agent may not be considered for use until the additional needs have been satisfied and the submitter so notified.

2003.3-2 Information furnished in accordance with 2003.3-4 shall be maintained on file by the Environmental Protection Agency, Oil and Special Materials Control Division, (WH-548) Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use and dosage rates for dispersing agents. Any changes in the composition or formulation of the dispersing agent that will affect any of the data being requested in 2003.3-4 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised dispersing agent.

2003.3-3 The acceptance and maintenance of product data by EPA does not constitute approval of the dispersing agent nor does it imply compliance with any EPA criterial or minimum standards for such agents. The OSC will determine which dispersing agent may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of the EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2003.3-4 in any advertisements or technical literature on the dispersing agent. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the dispersing agent for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files, which would preclude use of the dispersing agent except as noted in 2003.2-3 for imminent hazards.

2003.3-4 Required Technical Product Data

2003.3-4.1 Name, brand, or trademark, if any, under which the chemical agent is sold.

2003.3-4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2003.3-4.3 Name, address and telephone number of primary distributers or sales outlets.

2003.3-4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures to include optimum ranges as well as temperatures that will cause phase separations, chemical changes or otherwise damage effectiveness of the chemical agent.

2003.3-4.5 Shelf Life.

2003.3-4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2003.3-4.7 Dispersant Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2-73-201, May 1973) pages 22-34. This report may be obtained from the Oil and Special Materials Control Division (WH-548), EPA, Washington, D.C. 20460.

2003.3-4.8 Dispersant Effectiveness—Use standard effectiveness test methods in EPA R2-73-201, May 1973, pages 11-21.

2003.3-4.9 Flash Point—Select appropriate method from the following: ASTM—D 56-70; ASTM—D 92-72; ASTM—D 93-72; ASTM—D 1310-67.

2003.3-4.10 Pour Point—Use ASTM D 97-66

2003.3-4.11 Viscosity—Use ASTM D 445-72

2003.3-4.12 Specific Gravity—Use ASTM D 1298-67

2003.3-4.13 pH—Use ASTM D 1293-65

2003.3-4.14 Ionic Activity—Use Weatherburn Test as described below:

Ionic activity tests (Weatherburn Test)

Reagents: 1. Dye solution: 0.03 grams methylene blue, 12 grams concentrated sulfuric acid, 50 grams anhydrous sodium sulfate dissolved in water to make a total of one liter solution.

2. Anionic surfactant solution—0.5% Aerosol OT (Sodium dioctyl sulfo succinate).

3. Chloroform.

Procedure: 1. Into a 25 ml. test tube, place 8 ml. of dye solution and 5 ml. chloroform. Add anionic surfactants solution drop by drop, shaking vigorously between drops and allowing phases to separate. Continue adding dropwise until the two layers are equal in color and intensity viewed in reflected light. Usually 10 to 12 drops of anionic solution are required.

2. Now add 2 ml. of 0.1% solution of the unknown and shake vigorously.

Results: 1. Chloroform phase (lower) is deeper in color and aqueous phase is mostly colorless—anionic is positive.

2. Water phase (upper) is deeper in color than the chloroform phase—cationic is positive.

3. Both phases are more or less the same color—probably a nonionic.

4. If the aqueous phase has become milky and hence slightly lighter in color, it may still be nonionic. Soaps do not react in this procedure. If both anionics and nonionics are present, the reaction of this test will be anionic positive.

2003.3-4.15 Miscibility—Use the test described below which is a modification of military specification MIL-C-22230 (ships):

One part of the dispersing agent is mixed with 100 parts of synthetic sea water. The solution is agitated for one hour and any visible separation of the dispersing agent should be noted after this period of agitation. The test is to be performed with water temperatures at both 20°C and 0°C. The synthetic sea water shall be formulated as follows:

Sodium Chloride (grams)	150.0
Magnesium Chloride, hexahydrate (grams)	66.0
Calcium Chloride dihydrate (grams)	9.6
Sodium Sulfate anhydrous (grams)	24.0
Distilled water to make a total of (liters)	6.0

2003.3-4.16 Dispersing Agent Components

Itemize by chemical name and percentage by weight of each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variation in manufacture or formulations. At least the following major components shall be identified in complying with 2003.3-4.16.

(a) Surface active agents.

(b) Solvents.

(c) Additives.

If requested by the submitter, information from 2003.3-4.16 will be handled as trade secrets under provisions of P.L. 90-23, the Administrative Procedures Act.

2003.3-4.17 Heavy Metal and Chlorinated Hydrocarbons

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be reasonably expected to be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the detailed analytical methods and sample preparation shall be fully described.

2003.3-5 Analytical Laboratory Requirements for Technical Product Data:

2003.3-5.1 The required tests shall be performed by a qualified laboratory.

2003.3-5.2 The technical product data submission shall include the identity of the laboratory, the qualifications of the laboratory staff including professional biographical information for individuals responsible for any tests, and laboratory experience with similar tests. Laboratories performing bioassay tests for dispersant or surface collecting agent toxicity must demonstrate previous bioassay experience in order for their results to be accepted. EPA will not approve the selection of laboratories by intended submitters of technical product data prior to submission of the data. It is the responsibility of the submitter to select competent analytical laboratories based on the guidelines contained herein.

2003.3-5.3 EPA reserves the right to refuse to accept a submission of technical product data because of lack of qualifications of analytical laboratory, significant variance between submitted data and any laboratory confirmation performed by EPA, or other circumstances that will result in inadequate or inaccurate environmental information on the dispersing agent.

2004 Surface Collecting Agent Program for Spills of Oil and Applicable Hazardous Substances

2004.1 Authorization for Use of Surface Collecting Agents: Major, Medium and Minor Discharges.

2004.1-1 The OSC may authorize use of surface collecting agents on a case-by-case basis when their use will:

2004.1-1.1 Result in the least overall environmental damage or interference with designated water uses, and

2004.1-1.2 Provide a key element in the most effective system for removing oil or hazardous substances discharge from the water environment.

2004.1-2 Mechanism for authorizing use. The OSC may authorize the use of a surface collecting agent verbally when on scene or by telephone prior to arriving on scene. In all cases, the OSC is obligated to comply with the provisions of 2004.2 prior to making such authorization. A review of the capabilities and expertise of the owner or operator or cleanup contractor prior to the occurence of the spill incident would be most beneficial in situations where telephone authorization is desired or contemplated.

2004.2 Restrictions on Surface Collecting Agent Use.

2004.2-1 The OSC may authorize the use of surface collecting agents only after being informed of the environmental conditions at the point of intended use. These environmental conditions include air and water temperatures, wind conditions, wave and current conditions, presence and relative density of debris and other floating matter on the water, type and condition of the oil or hazardous substance spilled, special biological factors such as waterfowl sanctuaries, wildlife refuges, spawning or nursery grounds, shellfish beds, swamp areas, etc., and the availability of removal equipment that could be employed to remove the collected material from the water. Information on environmental conditions should be evaluated by the OSC from the standpoint that conditions such as strong winds, choppy waters, low temperatures, debris, and aquatic vegetation can adversely affect the performance of collecting agents or complicate further removal operations. The performance can also vary with types of oils or hazardous substances. The agents can be effective with thin films of light oils but have little value with thick layers of heavy, viscous oils. The agents should not be used unless adequate removal equipment is available to remove the collected oil.

2004.2-2 A chemical agent shall not be used as a surface collecting agent unless the provisions of 2004.3 are complied with and EPA has informed the manufacturer's representative that the product is acceptable for use as a surface collecting agent.

2004.3 Technical Product Data for Surface Collecting Agents.

2004.3-1 Technical product data as specified in 2004.3-4 shall be provided to the Oil and Special Materials Control Division (WH-548), EPA, Washington, D.C. 20460, at least 60 days prior to the use of the agent. The use of existing surface collecting agents may be authorized by the OSC without complying with 2004.3 for 120 days from the effective date of this Annex. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data submitted. If additional data are requested or EPA desires to perform additional tests, the surface collecting agent may not be used until these additional needs have been satisfied and the submitter so notified.

2004.3-2 Information furnished in accordance with 2004.3-4 shall be maintained on file by the EPA, Oil and Special Materials Control Division (WH-548), Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use, dosage rates and special problems in the use of surface collecting agent. Any changes in the composition or formulation of the surface collecting agent that will affect any of the data requested in 2004.3 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised formulation of the surface collecting agent.

2004.3-3 EPA will review technical product data for surface collecting agents and will issue approvals for agents meeting certain criteria. At present, the only minimum criterion established is for solubility which is described in 2004.13. This criterion classifies the substance as a surface collecting agent but is not an indication of the effectiveness or toxicity of the material. Other product data such as toxicity, chemical components, and physical characteristics will be reviewed and, if the combined effects of these data and other factors will result in excessive hazard to the aquatic life, work safety, or other elements of the environment in the judgment of EPA, the Agency may refuse to approve the use of the agent.

EPA may, from time to time, establish minimum criteria for the data being requested and may also require additional data to assist in arriving at a judgment on the environmental acceptability of collecting agent usage.

To avoid possible misinterpretation and misrepresentation of the EPA's role in the surface collecting agent technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2004.3-4 in any advertisements or technical literature on the collecting agent. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the surface collecting agent beyond that stated in the letter for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the surface collecting agent.

2004.3-4 Required Technical Product Data

2004.3-4.1 Name, brand, or trademark, if any, under which the surface collecting agent is sold.

2004.3-4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2004.3-4.3 Name, address and telephone number of primary distributors or sales outlets.

2004.3-4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperature to include optimum ranges as well as temperatures that will cause phase separation, chemcial changes, or otherwise damage effectiveness of the surface collecting agent.

2004.3-4.5 Shelf Life.

2004.3-4.6 Recommended application procedure(s), concentration(s) and conditions for us depending upon water salinity, water temperature and types and ages of the pollutants.

2004.3-4.7 Surface Collecting Agent Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2-73-201, May 1973) pages 22-34. This report may be obtained from the Oil and Special Materials Control Division (WH-548), EPA, Washington, D.C. 20460.

2004.3-4.8 Flash Point—Select appropriate method from the following: ASTM—D 56-70; ASTM—D 92-72; ASTM—D 93-72; ASTM—D 1310-67.

2004.3-4.9 Pour Point—Use ASTM D 97-66

2004.3-4.10 Viscosity—Use ASTM D 445-72

2004.3-4.11 Specific Gravity—Use ASTM D 1298—67

2004.3-4.12 pH—Use ASTM D 1293-65

2004.3-4.13 Interim Test to Distinguish Between Surface Collecting Agents and Other Spill Cleanup Chemicals.

In order to distinguish between surface collecting agents and other chemical materials, this interim test procedure was developed. This test procedure is not an efficiency test. It is to be used only to distinguish between surface collecting agents and dispersants.

Scope

1. Procedure to be used to determine the solubility in water under standard conditions of oil spill control chemicals.

Method Summary

2. Five (5) milliliters of the chemical under test are intimately mixed with ninety-five (95) milliliters of distilled water, allowed to stand undisturbed for one hour, and then the volume of the upper phase is determined to the nearest 1 milliliter.

Apparatus

3. (a) Mixing cylinder, 100 milliliter subdivisions and fitted with glass stoppers.

(b) Pipettes: Volumetric pipette, 5.0 millileter.

(c) Timers

Procedure

4. Add 95 milliliters of distilled water 22°C+/−3°C to a 100 milliliter mixing cylinder. To the surface of the water in the mixing cylinder, add 5.0 milliliters of the chemical under test. Insert the stopper and invert the cylinder 5 times in 10 seconds. Set

upright for one (1) hour at 22°C+/−3°C and then measure the chemical layer at the surface of the water. The major portions of the chemical added (75%) should be at the water surface as a separate and easily distinguished layer.

2004.3-4.14 Surface Collecting Agent Components

Itemize by chemical name and percentage by weight each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variations in manufacture or formulations. At least the following major components shall be identified.

(a) Surface active agents

(b) Solvents

(c) Additives

If requested by the submitter, information for 2004.3-4.14 will be handled as trade secrets under provisions of Pub. L. 90-23, the Administrative Procedures Act.

2004.3-4.15 Heavy Metals and Chlorinated Hydrocarbons

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the detailed analytical methods and sample preparations shall be fully described.

2004.3-5 Analytical Laboratory Requirements for Technical Product Data:

Follow stipulations in 2003.3-5

2005 Biological Additive Program for Spills of Oil and Applicable Hazardous Substances

2005.1 Authorization for use of biological additives.

2005.1-1 All discharges, the OSC may authorize the use of biological additives on water or shorelines only after obtaining the approval of the EPA representative to RRT. The manufacturer or supplier of microbiological cultures or enzymes must obtain approval from State and local public health and pollution control officials and furnish evidence of such approval to the EPA RRT representative.

2005.2 Special Restrictions on Biological Additive Use

2005.2-1 Microbiological cultures and enzyme mixtures shall not be considered for use as biological additives unless technical product data have been provided and accepted in accordance with 2005.3.

2005.2-2 The OSC must be supplied with the chemical composition and ratios of primary nutrients or nutrient additives prior to seeking approval for their use.

2005.3 Technical Product Data for Biological Additives

2005.3-1 Technical product data as outlined in 2005.3-4 on the constituents of a biological additive shall be submitted to the Oil and Special Materials Control Division (WH-548), Environmental Protection Agency, Washington, D.C. 20460, at least 60 days prior to the use of the additive. Within 60 days of receipt of the data, EPA will inform in writing the submitter on the adequacy of the data provided.

If additional information is requested or EPA desires to perform tests, the biological additive may not be used until the additional needs have been satisfied and the submitter so notified.

2005.3-2 Information furnished in accordance with 2003.3-4 shall be maintained on file by EPA to provide technical guidance to OSCs on the acceptable circumstances of use and application rates for biological additives. Any changes in the composition of the biological additive that will affect any of the data being requested in 2005.3-4 shall be immediately brought to the attention of EPA, and testing of the additive will be repeated prior to the use of the revised biological additive.

2005.3-3 The acceptance and maintenance of product data by EPA does not constitute approval of the biological additive nor does it imply compliance with any EPA criteria or minimum standards for such additives. The OSC will determine which biological additive may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2005.3-4 in any advertisements or technical literature on the biological additive. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the biological additive for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the biological additive.

2005.3-4 Required Technical Product Data

2005.3-4.1 Name, brand, or trademark, if any, under which the biological additive is sold.

2005.3-4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2005.3-4.3 Name, address and telephone number of primary distributors or sales outlets.

2005.3-4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures.

2005.3-4.5 Shelf Life.

2005.3-4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2005.3-4.7 Statements on the expected effectiveness of the additive including degradation rates and the test conditions and data on effectiveness.

2005.3-4.8 For microbiological cultures furnish the following information:

Listing of all microorganisms to species,[1]

Percentage of each species in the composition of the additive,[1]

Optimum pH and temperature range for use of the additive,

Special nutrient requirements, if any,

Separate listing of the following and test methods for such determinations: Salmonella, fecal coliform, Shigella, Staphylococcus Coagulase positive, and Beta Hemolytic Streptococci.

2005.3-4.9 For enzyme additives furnish the following information:

Enyzyme name(s),

International Union of Biochemistry (I.U.B.) number(s),

Source of the enzyme,

Units,

Specific Activity,

Optimum pH and temperature range for the use of the additive.

2005.3-5 Laboratory Requirements for Technical Product Data: Follow stipulations in 2003.3-5.

2006 Burning Agent Program for Spills of Oil and Applicable Hazardous Substances

2006.1 Authorization for Use of Burning Agents

2006.1-1 All discharges. The OSC may authorize the use of burning agents only when they will:

2006.1-1.1 Prevent or substantially reduce imminent threats to human life, limb, or property;

2006.1-1.2 Result in the least environmental harm when compared to other removal or disposal methods.

2006.1-2 Prior to authorizing use under 2006.1-1.2, the OSC must obtain approval of the EPA RRT representative and all applicable State and local public health pollution control officials.

2006.2 Special Restrictions on Burning Agent Use

2006.2-1 The OSC will evaluate the suitability of burning agents on a case-by-case basis. Burning agents should be inert materials that will not, in themselves, be a water pollutant. The addition of oils (such as gasoline or solvents) as an igniter shall be avoided unless it is necessary under 2006.1-1.

2006.2-2 A technical data program for burning agents will not be established at this time.

2007 Sinking Agent Program for Spills of Oil and Applicable Hazardous Substances

2007.1 Authorization for Use of Sinking Agents

2007.1-1 All Discharges

Sinking agents shall not be applied to discharges of oil or hazardous substances on the navigable water of the United States or the contiguous zone.

2008 Mechanical Methods and Sorbents Program for Spills of Oil and Hazardous Substances

2008.1 Authorization for Use of Mechanical Methods and Sorbents

2008.1-1 All Discharges

2008.1-1.1 As stated in 2001.3, it is the policy of this Schedule to favor the use of mechanical methods and sorbents for removal of oil and hazardous substances spills. The OSC has the authority to use or prohibit specific mechanical methods and sorbents on a case-by-case basis. The OSC will select methods and materials that, in his judgment, will be most effective in expeditiously removing the spilled material and mitigating the related damages, and will minimize secondary pollution from the removal or mitigation operation. Prior to authorizing the use of sorbents, the OSC shall take into consideration hydrographic and meteorological conditions as well as the characteristics of the sorbent and the availability of adequate containment and removal equipment.

2008.1-1.2 A technical data program for mechanical methods and sorbents will not be established at this time.

PART 1515—FREEDOM OF INFORMATION ACT PROCEDURES

PURPOSE

Sec.
1515.1 What are these procedures?

ORGANIZATION OF CEQ

1515.2 What is the Council on Environmental Quality (CEQ)?

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[1] If requested by the submitter, these items will be handled as trade secrets under the provisions of the Administrative Procedures Act (Pub. L. 90-23).

Sec.
1515.3 How is CEQ organized?

PROCEDURES FOR REQUESTING RECORDS

1515.5 How to make a Freedom of Information Act request.

AVAILABILITY OF INFORMATION

1515.10 What information is available, and how can it be obtained?

COSTS

1515.15 What fees may be charged, and how should they be paid?

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

SOURCE: 42 FR 65158, Dec. 30, 1977, unless otherwise noted.

PURPOSE

§ 1515.1 What are these procedures?

The Freedom of Information Act (5 U.S.C. 552, commonly known as FOIA) is a law which creates a procedure for any person to request official documents and other records from United States Government agencies. The law requires every Federal agency to make available to the public the material requested, unless the material falls under one of the limited exceptions stated in section 552(b)(5) of the Act, and the agency has good reason to refuse the request. These procedures explain how the Council on Environmental Quality—one of several offices in the Executive Office of the President—will carry out the Freedom of Information Act. They are written from the standpoint of a member of the public requesting material from the Council.

ORGANIZATION OF CEQ

§ 1515.2 What is the Council on Environmental Quality (CEQ)?

(a) The Council on Environmental Quality ("CEQ" or "the Council") was created by the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347). The Council's authority is derived from that Act, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371-4374), Reorganization Plan No. 1 of 1977 (July 15, 1977), and Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970, as amended by Executive Order 11991, May 24, 1977.

(b) The Council's primary responsibilities include the following:

(1) To review and evaluate the programs and activities of the Federal Government to determine how they are contributing to the attainment of the national environmental policy;

(2) To assist Federal agencies and departments in appraising the effectiveness of their existing and proposed facilities, programs, policies, and activities affecting environmental quality;

(3) To develop and recommend to the President policies to improve environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(4) To advise and assist the President in achieving international cooperation for dealing with environmental problems;

(5) To assist in coordinating among Federal agencies and departments those programs which affect, protect, and improve environmental quality, including Federal compliance with the environmental impact statement process, and to seek resolution of significant environmental issues;

(6) To foster research relating to environmental quality and the impacts of new or changing technologies; and

(7) To analyze long and short term environmental problems and trends and assist in preparing an annual Environmental Quality Report to the President and the Congress.

(c) The Council maintains a "Quarterly Index" which lists its current policies and procedures, as required by section 552(a)(2) of the Freedom of Information Act. This index is updated and published in the FEDERAL REGISTER quarterly, starting in 1976. The Quarterly Index—and the specific items listed in the index—are available on request from the Freedom of Information Officer. You may also inspect or copy any of these materials at the Council's office during the hours stated below in § 1515.3(f).

§ 1515.3 How is CEQ organized?

(a) The Council is made up of three members appointed by the President and subject to approval by the Senate. One member is designated as chairman by the President. All three serve in a full-time capacity.

(b) The National Environmental Policy Act and the Environmental Quality Improvement Act give the Council the authority to hire any officers and staff that may be necessary to carry out responsibilities and functions specified in these two Acts. Also, the use of consultants and experts is permitted.

(c) In addition to the three members, the Council has program and legal staff.

(d) The Council has no field or regional offices.

(e) The Council has a public affairs office which is responsible for providing information to the general public, the Congress, and the press. If you are interested in general information about the Council or have questions about the Council's recent activities or policy positions, you should call this office at (202) 633-7005 or write to the "Public Affairs Office" of the Council at the address given in the next paragraph.

NOTE: The CEQ public affairs office can respond fully and promptly to most questions you may have; the Council suggests that the Freedom of Information Act procedures be used when you are seeking a specific document and have had difficulty obtaining it.

(f) The Council is located at 722 Jackson Place NW., Washington, D.C. 20006. Office hours are 9-5:30, Monday through Friday, except legal holidays. If you wish to meet with any of the staff, please write or phone ahead for an appointment. The main number is 202-633-7027.

PROCEDURES FOR REQUESTING RECORDS

§ 1515.5 How to make a Freedom of Information Act request.

(a) The Chairman has appointed a Freedom of Information Officer who will be responsible for overseeing the Council's administration of the Freedom of Information Act and for receiving, routing, and overseeing the processing of all Freedom of Information requests. The Chairman has also appointed an Appeals Officer who is responsible for processing any appeals.

(b) *Requesting information from the Council.* (1) When you make a Freedom of Information Act request to the Council, the Freedom of Information Officer shall decide how to respond to—or "make an initial determination on"—your request within 10 working days from the date the Officer receives the request. The Freedom of Information Officer will then provide you with written notification of the determination.

(2) You can make a Freedom of Information Act request by writing a letter which states that you are making a Freedom of Information Act request. Address your letter to:

Freedom of Information Officer, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006.

(3) In your request you should identify the desired record or reasonably describe it. The request should be as specific as possible so that the item can be readily found. You should not make blanket requests, such as requests for "the entire file of" or "all materials relating to" a specified subject.

(4) The Council will make a reasonable effort to assist you in defining the request to eliminate extraneous and unwanted materials and to keep search and copying fees to a minimum. If you have budgetary constraints and anticipate that your request might be costly you may wish to indicate the maximum fee you are prepared to pay for acquiring the information. (See § 1515.15(c) also.)

(5) The 10 day period for making a determination on a request will begin when the records reqested are specified or reasonably identifiable.

(6) Despite its name, the Freedom of Information Act does not require a government agency to create or research information that you would like or that you may think the agency should have. The Act only requres that existing records be made available to the public.

(c) *Council's response to a request.* (1) Upon receipt of any request under the Act, the Freedom of Information

Officer shall direct the request to the appropriate staff member at the Council, who will review the request and advise the Freedom of Information Officer as soon as possible.

(2) If it is appropriate to grant the request, the staff member will immediately collect the requested materials in order to accompany, wherever possible, the Freedom of Information Officer's letter notifying you of the decision.

(3) If your request is denied, in part or in full, the letter notifying you of the decision will be signed by the Freedom of Information Officer, and will include the names of any other individuals who participated in the decision. The letter will include the reasons for any denial and the procedure for filing an appeal.

(d) *Appeals.* (1) If you are not satisfied with the response you have received from the Freedom of Information Officer, you may ask the Council to reconsider the decision. You should explain what material you still wish to receive, and why you believe the Council should disclose this to you. This is called an "appeal." You must make you appeal within 45 days of the date on the letter which denied your request.

(2) You can make an appeal by writing a letter to:

FOIA Appeals Officer, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006.

(3) Your letter should specify the records being requested and ask the Appeals Officer to review the determination made by the Freedom of Information Officer. The letter should explain the basis for the appeal.

(4) The Appeals Officer shall decide the appeal—or "make a final determination"—within 20 working days from the date the Officer receives the appeal. The Appeals Officer (or designee) will send you a letter informing you of the decision as soon as it is made. If the Appeals Officer denies your request, in part or in whole, the letter will also notify you of the provisions for judicial review and the names of any persons who participated in the final determination of the appeal.

(e) *Extending the Council's time to respond.* In unusual circumstances, the time limits for response to your request (paragraphs (b) and (d) of this section) may be extended by the Council for not more than 10 working days. Extensions may be granted by the Freedom of Information Officer in the case of initial requests and by the Appeals Officer in the case of any appeals. The extension period may be split between the initial request and the appeal but may not exceed 10 working days overall. Any extension will be made or confirmed to you in writing and will set forth the reasons for the extension and the date that the final determination is expected. The term "unusual circumstances" means:

(i) The need to search for and collect the requested records from * * * establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(5 U.S.C. 552(a)(6)(B))

AVAILABILITY OF INFORMATION

§ 1515.10 What information is available, and how can it be obtained?

(a) When a request for information has been approved, in whole or in part, you may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Freedom of Information Officer at the address or phone number given in § 1515.3(f). You may be charged reasonable fees for copying materials, as explained by § 1515.15. The Council on Environmental Quality will permit copying of any available material but will reserve the right to limit the number of copies made with the Council's copying facilities.

(b) In general, all records of the Council are available to the public, as required by the Freedom of Information Act. The Council claims the right, where it is applicable, to withhold material under the provisions specified in the Freedom of Information Act as amended (5 U.S.C. 552(b)).

(c) The legislative history of the establishment of the Council states that the Congress intended the Council to be a confidential advisor to the President on matters of environmental policy. Therefore, members of the public should presume that communications between the Council and the President (and their staffs) are confidential and ordinarily will not be released; they will usually fall, at a minimum, within Exemption 5 of the Act. The Freedom of Information Officer shall review each request, however, to determine whether the record is exclusively factual or may have factual portions which may be reasonably segregated and made available to the requester. Furthermore, on the recommendation of the FOIA Officer or Appeals Officer, the Council will consider the release of an entire record, even if it comes within an exemption or contains policy advice, if its disclosure would not impair Executive policymaking processes or the Council's participation in decisionmaking.

COSTS

§ 1515.15 What fees may be charged, and how should they be paid?

(a) Following is the schedule of fees you may be charged for the search and reproduction of information available under the Freedom of Information Act, 5 U.S.C. 552, as amended.

(1) *Search for records.* Five dollars per hour when the search is conducted by a clerical employee. Eight dollars per hour when the search is conducted by a professional employee. There will be no charge for searches of less than one hour.

(2) *Duplication of records.* Records will be duplicated at a rate of $0.10 per page for copying of 10 pages or more. There will be no charge for duplicating 9 pages or less.

(3) *Other.* When no specific fee has been established for a service, or the request for a service does not fall under categories (1) and (2), the Administrative Officer is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act. Examples of services covered by this provision include searches involving computer time or special travel, transportation, or communication costs.

(b) If the Council anticipates that the fees chargeable under this section will amount to more than $25, or the maximum amount specified in your request, you shall be promptly notified of the amount of the anticipated fee or the closest estimate of the amount. In such instances you will be advised of your option to consult with Council personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet your needs. A reformulated request shall be considered a new request, thus beginning a new 10 working day period for processing.

(c) Fees must be paid in full prior to issuance of the requested copies. In the event you owe money for previous request, copies of records will not be provided for any subsequent request until the debt has been paid in full.

(d) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the FOI Officer determines that a record which has been requested is exempt under the Freedom of Information Act as amended and is to be withheld.

(e) Payment shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Checks shall be made payable to General Services Administration. You should mail or deliver any payment for services to the Administrative Office, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

(f) A receipt for fees paid will be given upon request. Refunds of fees paid for services actually rendered will not be made.

(g) The Council may waive all or part of any fee provided for in this section when the Freedom of Information Officer (or designee) deems it to be in either the Council's interest or in the general public's interest.

PART 1516—PRIVACY ACT IMPLEMENTATION

Sec.

1516.1 Purpose and scope.
1516.2 Definitions.
1516.3 Procedures for requests pertaining to individual records in a record system.
1516.4 Times, places, and requirements for the identification of the individual making a request.
1516.5 Disclosure of requested information to the individual.
1516.6 Request for correction or amendment to the record.
1516.7 Agency review of request for correction or amendment of the record.
1516.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1516.9 Disclosure of a record to a person other than the individual to whom the record pertains.
1516.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

SOURCE: 42 FR 32537, June 27, 1977, unless otherwise noted.

§ 1516.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Council on Environmental Quality (hereafter known as the Council) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 1516.2 Definitions.

For the purpose of these regulations:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" means maintain, collect, use or disseminate;

(c) The term "record" means any item or collection or grouping of information about an individual that is maintained by the Council (including, but not limited to, his or her employment history, payroll information, and financial transactions), and that contains his or her name, or an identifying number, symbol, or other identifying particular assigned to the individual such as a social security number;

(d) The term "system of records" means a group of any records under the control of the Council from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1516.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a written request to the Administrative Officer of the Council to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a written request to the Administrative Officer of the Council which states the individual's desire to review his or her record. The Administrative Officer of the Council is available to answer questions regarding these regulations and to provide assistance in locating records in the Council's system of records.

[42 FR 32537, June 27, 1977; 42 FR 35960, July 13, 1977]

§ 1516.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Officer of the Council pursuant to § 1516.3 shall present the request at the Council's office, 722 Jackson Place, N.W., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. and should be prepared to identify himself by signature. Requests will also be accepted in writing if mailed to the Council's offices and signed by the requester.

§ 1516.5 Disclosure of requested information to the individual.

Upon verification of identity, the Council shall disclose to the individual the information contained in the record which pertains to that individual.

(a) The individual may be accompanied for this purpose by a person of his choosing.

(b) Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available.

[42 FR 35960, July 13, 1977]

§ 1516.6 Request for correction or amendment to the record.

The individual may submit a request to the Administrative Officer of the Council which states the individual's desire to correct or to amend his or her record. This request must be made in accordance with the procedures of § 1516.4 and shall describe in detail the change which is requested.

[42 FR 32537, June 27, 1977. Redesignated at 42 FR 35960, July 13, 1977]

§ 1516.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of a request to correct or to amend a record, the Administrative Officer of the Council will acknowledge in writing such receipt and promptly either:

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or amend the record in accordance with the request, the reason for the refusal, and the procedure established by the Council for the individual to request a review of that refusal.

§ 1516.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual may appeal refusal by the Administrative Officer of the Council to correct or to amend his or her record by submitting a request for a review of such refusal to the General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006. The General Counsel shall, not later than thirty working days from the date on which the individual requests such a review, complete such review and make a final determination unless, for good cause shown, the General Counsel extends such thirty day period. If, after his or her review, the General Counsel also refuses to correct or to amend the record in accordance with the request, the individual may file with the Council a concise statement setting forth the reasons for his or her disagreement with the General Counsel's decision and may seek judicial relief under 5 U.S.C. 552a(g)(1)(A).

§ 1516.9 Disclosure of a record to a person other than the individual to whom the record pertains.

The Council will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure either has been listed as a "routine use" in the Council's notices of its systems of records or falls within the special conditions of disclosure set forth in section 3 of the Privacy Act of 1974.

§ 1516.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for the record, in advance of receipt of the pages.

PART 1517—PUBLIC MEETING PROCEDURES OF THE COUNCIL ON ENVIRONMENTAL QUALITY

Sec.

1517.1 Policy and scope.
1517.2 Definitions.
1517.3 Open meeting requirement.
1517.4 Exceptions.
1517.5 Procedure for closing meetings.
1517.6 Notice of meetings.
1517.7 Records of closed meetings.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 94-409.

SOURCE: 42 FR 20818, Apr. 22, 1977, unless otherwise noted.

§ 1517.1 Policy and scope.

Consistent with the policy that the public is entitled to the fullest information regarding the decisionmaking processes of the Federal Government, it is the purpose of this part to open the meetings of the Council on Environmental Quality to public observation while protecting the rights of individuals and the ability of the Council to carry out its primary responsibility of providing advice to the President. Actions taken by the Chairman acting as Director of the Office of Environmental Quality and Council actions involving advice to the President when such advice is not formulated collegially during a meeting are outside the scope of this part. In addition to conducting the meetings required by this part, it is the Council's policy to conduct, open to public observation, periodic meetings involving Council discussions of Council business, including where appropriate, matters outside the scope of this part. This part does not affect the procedures set forth in Part 1515 pursuant to which records of the Council are made available to the public for inspection and copying, except that the exemptions set forth in § 1517.4(a) shall govern in the case of any request made to copy or inspect the transcripts, recording or minutes described in § 1517.7.

[47 FR 6277, Feb. 11, 1982]

§ 1517.2 Definitions.

For the purpose of this part:

(a) The term "Council" shall mean the Council on Environmental Quality established under Title II of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347).

(b) The term "meeting" means the deliberations of at least two Council members where such deliberations determine or result in the joint conduct or disposition of official collegial Council business, but does not include deliberations to take actions to open or close a meeting under §§ 1517.4 and 1517.5 or to release or withhold information under §§ 1517.4 and 1517.7. "Meeting" shall not be construed to prevent Council members from considering individually Council business that is circulated to them sequentially in writing.

(c) "Director" means the Chairman of the Council on Environmental Quality acting as the head of the Office of Environmental Quality pursuant to the Environmental Quality Improvement Act of 1970, Pub. L. 91-224, 42 U.S.C. 4371-4374.

[44 FR 34946, June 18, 1979, as amended at 47 FR 6277, Feb. 11, 1982]

§ 1517.3 Open meeting requirement.

(a) Every portion of every meeting of the Council is open to public observation subject to the exemptions provided in § 1517.4. Members of the Council may not jointly conduct or dispose of the business of the Council other than in accordance with this part.

(b) The Council will conduct open to public observation periodic meetings involving Council discussions of Council business including where appropriate matters outside the scope of this part. Such meetings will be noticed pursuant to § 1517.6.

(c) Members of the public may attend open meetings of the Council for the sole purpose of observation and may not participate in or photograph any meeting without prior permission of the Council. Members of the public who desire to participate in or photograph an open meeting of the Council may request permission to do so from the General Counsel of the Council before such meeting. Members of the public may record open meetings of the Council by means of any mechanical or electronic device unless the Council determines such recording would disrupt the orderly conduct of such meeting.

[44 FR 34946, June 18, 1979, as amended at 47 FR 6277, Feb. 11, 1982]

§ 1517.4 Exceptions.

(a) A meeting or portion thereof may be closed to public observation, and information pertaining to such meeting or portion thereof may be withheld from the public, if the Council determines that such meeting or portion thereof or disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (ii) in

fact properly classified pursuant to that Executive order;

(2) Relate solely to the internal personnel rules and practices of the Council;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that the statute: (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of those records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or,

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Council. This exception shall not apply in any instance where the Council has already disclosed to the public the content or nature of the proposed action, or where the Council is required by law to make such disclosure on its own initiative prior to taking final action on the proposal; or

(10) Specifically concern the issuance of a subpoena by the Council, or the participation of the Council in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Council of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Before a meeting is closed to public observation the Council shall determine whether or not the public interest requires that the meeting be open. The Council may open a meeting to public observation which could be closed under paragraph (a) of this section, if the Council finds it to be in the public interest to do so.

§ 1517.5 Procedure for closing meetings.

(a) A majority of the entire membership of the Council may vote to close to public observation a meeting or a portion or portions thereof, or to withhold information pertaining to such meeting. A separate vote of the members of the Council shall be taken with respect to each meeting of the Council, a portion or portions of which are proposed to be closed to the observation of the public or with respect to any information concerning such meetings or portion thereof. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each member of the Council participating in a vote shall be recorded and no proxies shall be allowed.

(b) Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Council close that portion to public observation for any of the reasons referred to in § 1517.4(a) the Council, upon request of any of the members of the Council, shall decide by recorded vote whether to close that portion of the meeting.

(c) For every meeting or portion thereof closed under this part, the General Counsel of the Council before such meeting is closed shall publicly certify that, in his or her opinion, the meeting may properly be closed to the public stating each relevant exemptive provision. The Council shall retain a copy of the General Counsel's certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and listing the persons present.

(d) Within one day of any vote taken on a proposal to close a meeting, the Council shall make publicly available a record reflecting the vote of each member on the question. In addition, within one day of any vote which closes a portion or portions of a meeting to the public, the Council shall make publicly available a full written explanation of its closure action together with a list naming all persons expected to attend and identifying their affilr portion thereof be opened. Such request shall be made of the Chairman of the Council who shall ensure that the request is circulated to all members of the Council on the same business day on which it is received. The request shall set forth the reasons why the requestor believes the meeting should be open. The Council upon the request of any member or its General Counsel, shall vote on the request.

§ 1517.6 Notice of meetings.

(a) Except as otherwise provided in this section, the Council shall make a public announcement at least one week before a meeting, to include the following:

(1) Time, place, and subject matter of the meeting;

(2) Whether the meeting is to be open or closed; and

(3) Name and telephone number of the official who will respond to requests for information about the meeting.

(b) A majority of the members of the Council may determine by recorded vote that the business of the Council requires a meeting to be called with less than one week's notice. At the earliest practicable time, the Council shall publicly announce the time, place and subject matter of the meeting, and whether or not it is to be open or closed to the public.

(c) If announcement of the subject matter of a closed meeting would reveal the information that the meeting itself was closed to protect, the subject matter shall not be announced.

(d) Following the public announcement required by paragraphs (a) or (b) of this section:

(1) A majority of the members of the Council may change the time or place of a meeting. At the earliest practicable time, the Council shall publicly announce the change.

(2) A majority of the entire membership of the Council may change the subject matter of a meeting, or the determination to open or close a meeting to the public, if it determines by a recorded vote that the change is required by the business of the Council and that no earlier announcement of the change was possible. At the earliest practicable time, the Council shall publicly announce the change, and the vote of each member upon the change.

(e) Individuals or organizations having a special interest in activities of the Council may request the Council to place them on a mailing list for receipt of information available under this section.

(f) Following public announcement of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time. The subject matter of a meeting or the determination to open or close a meeting may be changed following public announcement of a meeting only if both of the following conditions are met:

(1) There must be a recorded vote of a majority of the Council that the business of the Council requires the change and that no earlier announcement of such change was possible; and

(2) There must be a public announcement of the change and of the individual Council members' votes at the earliest practicable time.

(g) Immediately following each public announcement required by this section, the following information, as applicable, shall be submitted for publication in the FEDERAL REGISTER.

(1) Notice of the time, place, and subject matter of a meeting;

(2) Whether the meeting is open or closed;

(3) Any change in one of the preceding; and

(4) The name and telephone number of the official who will respond to requests for information about the meeting.

§ 1517.7 Records of closed meetings.

(a) A record of each meeting or portion thereof which is closed to the public shall be made and retained for two years or for one year after the conclusion of any Council proceeding involved in the meeting whichever occurs later. The record of any portion of a meeting closed to the public shall be a verbatim transcript or electronic recording. In lieu of a transcript or recording, a comprehensive set of minutes may be produced if the closure decision was made pursuant to § 1517.4(a) (8) or (10).

(b) If minutes are produced, such minutes shall fully and clearly describe all matters discussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a description of each of the views expressed on any item. The minutes shall also reflect the vote of each member of the Council on any roll call vote taken during the proceedings and identify all documents produced at the meeting.

(c) The following documents shall be retained by the Council as part of the transcript, recording, or minutes of the meeting:

(1) Certification by the General Counsel that the meeting may properly be closed; and

(2) Statement from the presiding officer of the meeting setting forth the date, time, and place of the meeting and listing the persons present.

(d) The Council shall make promptly available to the public at its offices at 722 Jackson Place, N.W., Washington, D.C. the transcript, electronic recording, or minutes maintained as a record of a closed meeting, except for such information as may be withheld under one of the provisions of § 1517.5. Copies of such transcript, minutes, or transcription of an electronic recording, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(e) [Reserved]

(f) Requests to review or obtain copies of records other than transcripts, electronic recordings or minutes of a meeting will be processed under the Freedom of Information Act (5 U.S.C. 552) or, where applicable, the Privacy Act of 1974. (5 U.S.C. 552a). Nothing in these regulations authorizes the Council to withhold from any individual any record, including the transcripts or electronic recordings described in § 1517.8, to which the individual may have access under the Privacy Act of 1974 (5 U.S.C. 552a).

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FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

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The Director of the Federal Register approves the following incorporations by reference effective July 1, 1982, unless otherwise noted (5 U.S.C. 552(a) and 1 CFR Part 51). For more information on incorporation by reference, see the preliminary pages of this volume.

40 CFR CHAPTER I (PARTS 430, 440): SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS
ENVIRONMENTAL PROTECTION AGENCY

	40 CFR
National Council for Air and Stream Improvements, Inc. 260 Madison Ave., New York, NY 10016	
Technical Bulletin 253, Dec. 1971	430.11(b); 430.21(b); 430.31(b); 430.41(b)
Availability address code: a.	
Department of Energy Environmental Measurements Laboratory, 376 Hudson St., New York, NY 10014	
HASL Procedures Manual, HASL–300, 1973, page EU–03	440.82(g)
Availability address code: b and c.	

Availability Address Codes

a. National Council for Air and Stream Improvements, Inc., 260 Madison Ave., New York, NY 10016

b. Health and Safety Research Division, Oak Ridge National Laboratory, Oak Ridge, TN 37830

c. National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151

40 CFR CHAPTER I (PART 761)—SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT
ENVIRONMENTAL PROTECTION AGENCY

American Society for Testing and Materials 1916 Race St., Philadelphia, PA 19103	
ASTM D 93–77 Standard Test Method for Flash Point by Pensky-Martens Closed Tester.	761.40(a)(3)(iii)(B)(*6*); 761.75(b)(8)(iii)
ASTM D 129–64 (R 78) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method).	761.40(a)(3)(iii)(B)(*6*)
ASTM D 240—76 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by Bomb Calorimeter.	761.40(a)(3)(iii)(B)(*6*)
ASTM D 482–74 Standard Test Method for Ash from Petroleum Products.	761.40(a)(3)(iii)(B)(*6*)
ASTM D 524–76 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products.	761.40(a)(3)(iii)(B)(*6*)
ASTM D 808–63 (R 76) Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method).	761.40(a)(3)(iii)(B)(*6*)
ASTM D 923–75 Standard Test Method for Sampling Electrical Insulating Liquids.	761.40(g)(1)(ii) and (2)(ii)

ASTM D 1266–70 (R 75) Standard Test Method for Sulfur in Petroleum Products (Lamp Method).	761.40(a)(3)(iii)(B)(*6*)
ASTM D 1796–68 (R 77) Standard Test Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge.	761.40(a)(3)(iii)(B)(*6*)
ASTM D 2158–65 (R 75) Standard Test Method for Residues in Liquefied Petroleum (LP) Gas.	761.40(a)(3)(iii)(B)(*6*)
ASTM D 2709–68 (R 77) Standard Test Method for Water and Sediment in Distillate Fuel by Centrifuge.	761.40(a)(3)(iii)(B)(*6*)
ASTM D 2784–70 (R 75) Standard Test Method for Sulfur in Liquefied Petroleum Gases (Oxyhydrogen Burner or Lamp).	761.40(a)(3)(iii)(B)(*6*)
ASTM D 3178–73 Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coke and Coal.	761.40(a)(3)(iii)(B)(*6*)
ASTM D 3278–73 Standard Test Methods for Flash Point of Liquid by Setaflash Closed Tester.	761.75(b)(8)(iii)
ASTM E 258–67 (R 77) Standard Test Method for Total Nitrogen Inorganic Material by Modified KJELDAHL Method.	761.40(a)(3)(iii)(B)(*6*)

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For the convenience of the user, the following table shows the relationship of the old CFR section numbers to the new section numbers in Part 761.

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